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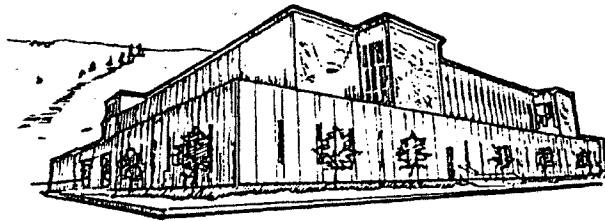
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POSITIVE DEMOCRACY: RECONCILING SIR ISAIAH BERLIN'S CONCEPTION  
OF POSITIVE LIBERTY WITH DEMOCRATIC THEORY

by

Andrew L. Campbell

B. A. University of Montana, 2001

presented in partial fulfillment of the requirements

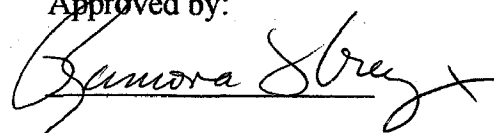
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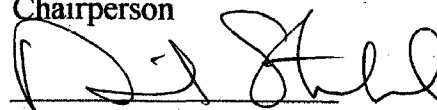
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Positive Democracy: Reconciling Sir Isaiah Berlin's Conception of Positive Liberty With Democratic Thought

Director: Ramona Grey



In Sir Isaiah Berlin's seminal lecture "Two Concepts of Liberty," Berlin distinguishes two historically prevalent models of liberty: "negative" and "positive." After a general interpretation of these terms, Berlin's lecture turns toward an evaluative analysis, arguing that the political consequences of embracing the positive ideal inevitably results in a considerable loss of individual liberty and the rise of anti-democratic regimes. Certainly, it is true that no open democratic society can forsake negative freedom as Berlin defines it. However, it is my contention that no *progressive* democratic society can do without an embrace of positive freedom either. Thus, it is the intent of this thesis to examine Berlin's theoretical position, first questioning whether the political consequences he associates with positive liberty are, indeed, the inevitable result of embracing its basic tenets, and second, that positive liberty's relationship with democracy is stronger than he is willing to admit. While Berlin's arguments are leveled against liberal theorists like T.H. Green who advocate an amount of positive liberty in liberal democracy, it is against those who seek collectivist or republican political associations that he provides his most passionate critiques. However, seeking a remedy for the political anxiety of contemporary America, defined by Michael Sandel as the loss of self-government and the erosion of community, may require the empirical and normative tenets of a republican democracy, with its strong embrace of positive liberty.

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## CHAPTER ONE

### INTRODUCTION

Upon his death in 1997, Sir Isaiah Berlin's biographer and long-time editor Henry Hardy remarked, "Isaiah Berlin was one of the most remarkable men of his time . . . Philosopher, political theorist, historian of ideas; Russian, Englishman, Jew; essayist, critic, teacher; he was a man of formidable intellectual power with a rare gift for understanding a wide range of human motives, hopes and fears."<sup>1</sup> Hardy's recollection of Berlin captures the many faces of one of the leading liberal thinkers of the twentieth century. Best known for his essays and lectures on the history of ideas, Berlin's contribution to political philosophy, especially his concern with liberty and the dignity of human beings, has had a significant impact on theoretical discussions of what is uniquely human and what is not, and why. Broadly, Berlin suggests that human experience is contingent upon specific, categorical models, "say those of purpose or of belonging to a group or of law." Throughout his work, Berlin seeks to expose these models of experience, so as to better understand "the source, scope, and validity of certain human goals."<sup>2</sup>

Berlin's essays, lectures, and conversations, upon which his reputation has been built, represents a great wealth of Western philosophical and political thought. Initially, Berlin's interest in philosophy was shaped by the agenda of logical positivism—an influential brand of formal philosophy rooted in strict empirical views of linguistics and natural, social and political sciences.<sup>3</sup> For Berlin, however, the questions arising within the positivist school, such as the condition of sentences having specific and definable meaning in reference to external reality, were sterile and disconnected with human



thought, action and history. Berlin, anxious to develop, explore and express his historical imagination, embarked on an intellectual journey to reveal clear and intelligible insights to the social, cultural, political, historical and biographical dimensions of everyday life. Berlin's early work, therefore, reflects a growing resistance to the formalities of the positivist school. A resistance which after World War II would culminate in a total repudiation of this brand of general philosophy.<sup>4</sup>

"Verification" (1939), and "Empirical Propositions and Hypothetical Statements" (1950), two early essays by Berlin, exemplify his denial of the strict empiricism of logical positivism. In attacking a key feature of the contemporary empiricist philosophers, Berlin writes, "the principle of verification [the notion that the meaning of a proposition resides in the means of its verification] cannot, for all that, be accepted as a final criterion of empirical significance."<sup>5</sup> For Berlin, all thought, abstract as well as analytical, empirical and metaphysical, exists not out of an objectively measurable connection with its historical, personal, and thought contexts, but, Bernard Williams writes, "Berlin uniquely conveys . . . that every thought belongs, not just somewhere, but to someone, and is at home in the context of other thoughts, a context which is not purely formally prescribed."<sup>6</sup> Language remains largely fluid in its contents and meaning, a position that becomes apparent in Berlin's thorough critique of the questions positivists raise: "I shall consequently urge that . . . [verification] needs to be abandoned or else considerably revised."<sup>7</sup>

Berlin's skepticism of positivist philosophy, and his ever-present historical curiosity, had a profound impact on his intellectual development. In the essays "The Purpose of Philosophy" (1962), and "Does Political Theory Still Exist" (1961), Berlin

again argues that understanding the contents and origins of human meaning and knowledge should not be limited to the positivist goal of charting the objective uses and implication of ordinary language.<sup>8</sup> For Berlin, rather, philosophy turns on questions that fail to find factual answers through observation and inference from observed data, or formal answers through rules of deduction or calculation. Questions of morals, linguistics, aesthetics, and liberty “fail to transform themselves into science . . . [because] their very essence involve value judgments,” and thus, “topics that remain obstinately philosophical.”<sup>9</sup> Berlin concludes that philosophy is not an empirical study, nor a kind of formal deduction. “The task of philosophy,” he writes, “is to extricate and bring to light the hidden categories and models in terms of which human beings think (that is, their use of words, images and other symbols).”<sup>10</sup>

In politics, models of experience have historically taken many social and political forms. In the Republic, Plato employs a geometrical pattern to conceive the contents and goals of human nature. Aristotle’s path to understanding relies on an ostensibly biological model. And individualist and liberal thinkers interpret the state as a model of patterned freedoms and restrictions guiding the protection of private thought, action and property. One of the profound consequences of ordering human understanding through these models of experience is their subsequent incompleteness and inconsistency. Berlin writes, “some [models of experience] are rendered inadequate by failing to account for too many aspects of experience, and are in their turn replaced by other models which emphasize what these last have omitted but in their turn may obscure what the others have rendered clear.”<sup>11</sup> It is the ultimate purpose of philosophy, Berlin concludes, to seek out in a clear and consistent manner these often obscure and contradictory models of

experience, and reveal and interpret the inconsistent patterns that prevent the development of more satisfactory ways of “organizing and describing and explaining experience.”<sup>12</sup>

These philosophical models of experience have also been heavily criticized due to their abstractness—considered “too remote from daily experience.” In response, Berlin writes, “this [objection] is false. Men cannot live without seeking to describe and explain the universe to themselves. The models that they use must deeply affect their lives.”<sup>13</sup> Understanding historical models of experience, and the self-understanding of contemporary models assist human beings in gaining knowledge of themselves and allow humans to “operate in the open, and not wildly in the dark.”<sup>14</sup> Berlin’s fervent preoccupation with philosophical models and structures, however, threaten to reduce the crux of his theoretical arguments to problems of relativism—the notion that all experience, knowledge, and thus, the criteria of judgment are relative, varying with time, culture, and history—as well as determinism—the idea that all thought and action is wholly determined by antecedent causes.<sup>15</sup>

Berlin, throughout his work, vehemently resists these propositions, arguing that they result in enormous moral and conceptual costs. Berlin insists, in the “Introduction” to his 1969 offering Four Essays on Liberty, that “if [determinism]\* ever becomes a widely accepted belief and enters the texture of general thought and conduct, the meaning and use of certain concepts and words central to human thought would become obsolete or else have to be drastically altered.” Skeptical of any thought that objectively deduces the value or meaning of an event purely from the occurrence of other, previous events, or

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\*Relativism is subject to the same critique.

merely in terms of its observed relationship to its historical or cultural context, Berlin argues that such thought is wholly inconsistent with the “habit of giving moral praise and blame, of congratulating and condemning men for their actions, with the implication that they are morally responsible for them.”<sup>16</sup>

These philosophic pillars of Berlin’s work result in common themes dominant both in his intellectual history and political theory. The central theme of Sir Isaiah Berlin’s work surrounds his enduring belief in value-pluralism—the notion that the natural human condition leaves individuals to choose between incommensurable and often incompatible values. “Ends equally ultimate,” Berlin contends, “equally sacred, may contradict each other, that entire systems of value may come into collision without possibility of rational arbitration, and that not merely in exceptional circumstances . . . but as part of the normal human situation.”<sup>17</sup> It is clear from this statement that Berlin’s value-pluralism is directly congruent with his insistence that models of human experience may conflict and furthermore, that this forms a central element of human nature. “It is a view of man,” John Gray writes, “as inherently unfinished and incomplete . . . and not subject comprehensively to any natural order.”<sup>18</sup> For Berlin, human beings are not subject to any “common or constant” human nature. Instead, they are “a supremely inventive species” that fashion for themselves “a plurality of divergent natures.”<sup>19</sup> This incessant embrace of value-pluralism is, according to Gray, Berlin’s “master idea,” and provides his greatest offering to political theory. Its result, above all, is “a death-blow to the central, classical Western tradition”; a tradition steeped in the notion that there is a single, final, and thus rational solution to the question of how men should live their lives.<sup>20</sup>

Throughout his work, Berlin repudiates the notion that human rationality can reduce all goods, all values, and all ideals into a single, universal and complete standard of living. Or, that individual goods or interests may be reconciled with the community good. “Berlin warns us,” Williams writes, “against the deep error of supposing . . . what is desirable can ultimately be united into a harmonious whole without loss.”<sup>21</sup> His advocacy of value-pluralism assumes that ultimate values are objective and knowable, but that they are many, and, as Gray writes, “[they] are uncombinable in a single human being or a single society, and that in [their] conflicts there is no overarching standard whereby the competing claims of such ultimate values are rationally arbitrable.”<sup>22</sup> According to Berlin, philosophic models of experience such as the universal and utopian goal of the Enlightenment—“the hope that human beings will shed their traditional allegiances and their local identities and unite in a universal civilization grounded in generic humanity and a rational morality”<sup>23</sup>—are practically incomprehensible, and above all, logically incoherent. It is against ultimate truths, such as those of the Enlightenment, that Berlin’s theoretical position seeks to confront.

Berlin suggests that the collision among values is inescapable, leaving human beings to make radical, often tragic choices—“an agonising experience for which, as a rational being, one cannot prepare.”<sup>24</sup> In contrast to the universalist, rational choice liberalism that grew out of Enlightenment ideals, Berlin’s brand of liberalism, defined by John Gray as “agnostic liberalism,” is rooted in the limits of rational choice—“limits imposed by the radical choices we are often constrained to make among goods that are both inherently rivalrous, and often constitutively uncombinable, and sometimes incommensurable, or rationally incomparable.”<sup>25</sup> Upon this view there is, Gray writes,

“no perfect form of human life, which we may never achieve but towards which we may struggle, no measuring rod on which different forms of human life encompassing different and uncombinable goods can be ranked.”<sup>26</sup>

Berlin’s thesis, which at first glance, might be seen as a pessimistic defense of the status quo, does not explicitly suggest that human life is imperfect, nor imperfectible.<sup>27</sup> It merely suggests that a perfect balance of universal values, or the notion of a single, all embracing value, is logically incoherent. Berlin states, “if you have maximum liberty, then the strong can destroy the weak, and if you have absolute equality, you cannot have absolute liberty, because you have to coerce the powerful . . . if they are not to devour the poor and the meek . . . Total liberty can be dreadful, total equality can be equally frightful.”<sup>28</sup> It is unrealistic, according to Berlin’s philosophy, to have a coherent conception of a society without loss, for the very nature of goods, or values, is their incompatibility.

Berlin argues that in the history of human thought and action where political regimes have attempted to rule in accordance with a supposed universal, objective set of values, the results have been fatal. For example, the Enlightenment ideal that human rationality is capable of identifying a single, objective utopian solution to human existence, and that achieving such a solution will make mankind happy and harmonious for the rest of eternity led in its extreme forms, on the one hand, to the debilitating authoritarian regimes of Soviet “War Communism” and, on the other, to the social detriments of *laissez-faire* capitalism in nineteenth century England. Berlin argues, that unfortunately, no cost—ethical, moral, or human—would be too high to obtain supposed universal values. Thus, “To make such an omelette, there is surely no limit to the number

of eggs that should be broken—that was the fate of Lenin, of Trotsky, of Mao, and for all I know of Pol Pot.”<sup>29</sup>

Berlin’s advocacy of value-pluralism, a constant throughout his work, is a key feature in his seminal lecture “Two Concepts of Liberty,” delivered upon his inauguration to the Chichele Chair of Social and Political Theory at Oxford University.<sup>30</sup> Whereas Berlin’s philosophic roots suggest that conflicts between distinct, ultimate values are incommensurable—between liberty and equality, for example—it is apparent that similar conflicts arise within values themselves; in this case, conflicts can arise between distinct conceptions of liberty. “When the liberty of privacy competes with freedom of information,” John Gray remarks on Berlin’s value-pluralism, “a trade-off must be made and a balance struck; but there is no comprehensive theory . . . by which such conflicts among liberties might be arbitrated.”<sup>31</sup> Within liberty, and no doubt other values as well, including equality, conflicts arise in which choices must be made; yet, the expansion in one sphere of liberty or equality may result in a degradation of another sphere. Thus, when Berlin argues that “negative” liberty—freedom\* from coercion—and “positive” liberty—freedom to achieve this or that goal—are two distinct conceptions or spheres of liberty, he is creating a vital distinction between ultimate and incommensurable values within the broad idea or ideal of liberty itself.

Sir Isaiah Berlin’s inaugural lecture has been established as a contemporary classic within political theory. In it, Berlin distinguishes two historically prevalent models of liberty: “negative” and “positive.” After a general interpretation of these terms, Berlin’s lecture turns toward an evaluative analysis, arguing that the political

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\* Berlin uses the terms “freedom” and “liberty” interchangeably throughout his lecture.

consequences of embracing the positive ideal inevitably results in a considerable loss of individual liberty and the rise of anti-democratic regimes. Certainly, it is true that no open democratic society can forsake negative freedom as Berlin defines it. However, it is my contention that no *progressive* democratic society, supporting advanced social services and inculcating individuals with those conditions of character necessary for self-government, can do without an embrace of positive freedom either. Thus, it is the intent of this thesis to examine Berlin's theoretical position, first questioning whether the political consequences he associates with positive liberty are, indeed, the inevitable result of embracing its basic tenets, and second, that positive liberty's relationship with democracy is stronger than he is willing to admit. While Berlin levels arguments against liberal theorists like T.H. Green, who advocate an amount of positive liberty in liberal democracy, it is against those who seek collectivist or republican political associations that he provides his most passionate critiques. Seeking a remedy for the political anxiety of contemporary America, however—the loss of self-government and the erosion of community—may require the empirical and normative tenets of a republican democracy, with its strong embrace of positive liberty.

In chapter one, I examine Berlin's general theoretical distinction between "negative" and "positive" liberty, and lay out his arguments concerning the nature and limits of coercion within these concepts. Chapter two will align these concepts within democratic thought, establishing first the parameters of a clear and consistent democratic theory, liberal and republican, and then examining the consequences of Berlin's analysis of the negative and positive ideas of freedom as embedded in the struggle between democratic and anti-democratic thought. Chapter three will critically examine Berlin's



assumptions about the anti-democratic nature of positive liberty, asking whether Berlin's interpretation of positive liberty can and should be reconsidered. Ultimately, I will draw links between positive liberty and liberal democracy. In the final chapter, I will seek to argue that the weak positive liberty offered in liberal democracy is incapable of addressing the degradation of America's civic life, and that addressing our contemporary anxieties may require the strong positive liberty implicit in republican democracy.

## CHAPTER TWO

### DISTINGUISHING NEGATIVE AND POSITIVE LIBERTY IN SIR ISAIAH BERLIN'S "TWO CONCEPTS OF LIBERTY"

Within the history of Western thought and discussion, the term "freedom" has been accepted as "obvious, self-explanatory, presenting no problem to our, or to our partner's, understanding."<sup>1</sup> Increasingly, it has been taken for granted, a protean term lacking a discrete definition, little discussed or thought about until it is threatened. "Consider," Maurice Cranston writes, "how much—or rather how little—you say if you say you are free."<sup>2</sup> Free from what? Free to do what? In these terms the word "free" means practically nothing, or it may be anything; for, to say "I am free" has a unlimited range of possible meanings. "If we are to know which of those innumerable possibilities is intended," Cranston continues, "we must know what it is that a man who says he is free, is free from."<sup>3</sup>

This statement reflects the notion within Western political philosophy that determining the freedom of an individual necessarily requires the identification of some obstacle, impediment or constraint that forces or coerces, thus, rendering the individual unfree. This is generally consistent with the view that freedom is achieved in the removal of negative social relationships, fostering the availability of choice. The individual experiences freedom, it is believed, when restraints, obstructions, and barriers to human action are removed. Within the history of ideas, however, there arises a dissatisfaction with this "negative," even "vulgar notion of freedom."<sup>4</sup> For some, there remains "a passion for improving mankind in its ultimate object."<sup>5</sup> Such passion is the response to the belief that human beings are dominated by irrational impulse and desire, propagating

the conditioned false consciousness that accompanies Western society. While the individual may feel “free” from deliberately constructed obstacles, he or she remains hopelessly sequestered within an area of ineffective, ultimately illusory independent action. From this concern there arises a “desire for something nobler.”<sup>6</sup> As Cranston notes, there arises a “desire to seek out . . . ‘the positive in freedom.’”<sup>7</sup>

It is the inevitable political consequences of the historical search for a positive, effective freedom, and the conflicts that accompany the alignment of the positive and negative social and political goals that informs Isaiah Berlin’s lecture “Two Concepts of Liberty.” In his lecture, Berlin provides an accessible, well crafted analytical foundation for these two systems of thought, so different, “as to have led in the end to the great clash of ideologies that dominates our world.”<sup>8</sup> A distinguishing mark of these clashing ideas is the “different and conflicting answers to what has long been the central question of politics—the question of obedience and coercion.”<sup>9</sup> Freedom, in both its positive and negative senses, is conceived in terms of when and how an individual is coerced. An examination of how these concepts of liberty interpret the relationship between social and political coercion and freedom, ultimately reveals significant consequences for political association.

Broadly, the distinction between these concepts of freedom turns on whether coercion is limited to the intended or unintended consequences of deliberate interference with independent human beings by other human beings, or whether coercion extends beyond deliberate interference to include notions of natural coercion, where the individual is a slave to nature, to their “unbridled passions,” to the social superstructure, to oppressive economic forms, or other moral, spiritual, or socially and politically

dominating relationships. The former conceives freedom as the absence of those consequences of deliberate coercion, intended or unintended, maximizing individual choice, irrespective of the outcome; the latter holds a higher standard. That is, “true” freedom requires the realization of “true” human potential, fostering the capacity for fundamental and effective participation in the sovereign structures or authorities that dominate the individual’s life—public, private, economic, social, political. In short, the latter conception of liberty is concerned with the quality of choice—choices that will lead to a better life—irrespective of the number of choices offered.

What is true of these variously conceived, and often incommensurable values within the broad concept of liberty, is equally true within the broad concept of democracy. Like liberty, any endeavor into democratic thought exposes a grave difficulty: “there is no democratic theory—there are only democratic theories.”<sup>10</sup> Even a quick glance suggests myriad definitions and interpretations. “In fact,” David Spitz writes, “so extreme have been some of the [theories] that one is left at times with the remarkable paradox that there is no necessary contradiction between democracy and dictatorship.”<sup>11</sup> Central to this contradiction, and to any theory of democracy generally, are the ways in which social and political liberty are conceived in democratic society. In its normative and empirical capacities, should democracy embrace purely negative liberty, maximizing choice, irrespective of the outcome? Or, should democracy concern itself with the outcomes of choice, seeking particular positive results, even while threatening the multiplicity of choice?

While this may appear to be easily addressed, Isaiah Berlin makes it explicitly clear that “[t]he connection between democracy and individual liberty is a good deal

more tenuous than it seemed to many advocates of both [negative and positive liberty].”<sup>12</sup>

It is the central aim of this thesis to examine that connection. While not explicitly addressing the relationship between liberty and democracy, Berlin’s lecture does provide a theoretical foundation upon which such questions might be raised and answered.

Broadly, it will be argued that negative liberty naturally aligns with the fair procedures and normative ideals characteristic to liberal democracy, while positive liberty, sharing weak theoretical links with liberal democracy, has a strong alignment with collectivist or republican democracy. It must be noted, however, that the political consequences of Berlin’s analysis of positive liberty suggests that there is something immanent in the goals of positive liberty that inevitably transform it into a doctrine of authority and oppression, thus precluding any consistent theoretical links between it and democracy—liberal or republican. Initially, therefore, the distinction between negative and positive liberty appear embedded in the struggle between democratic and anti-democratic thought generally. It is the intention of this chapter to critically analyze Berlin’s distinction between the negative and positive concepts of liberty, establishing that basic theoretical foundation. During the course of analysis, critics who argue that distinguishing between types, or kinds of freedom leads to spurious, unintelligible definitions of liberty—critics such as Gerald MacCallum—will be addressed in order to both clarify and defend Berlin’s conceptual distinction.

### **Negative Liberty**

Negative liberty, Berlin states, “[is] involved in the 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?”<sup>13</sup> Within this tradition of thought\*, Berlin argues, liberty accompanies the negative goal of warding off interference to possible choices. Experiencing freedom requires that the individual can do or be what he or she wishes, with what is available or potentially available, without the impediment of other individuals or groups of individuals. Berlin explains, “If I am prevented by others from doing what I could otherwise do, I am to that degree unfree.”<sup>14</sup> Thus, negative liberty is that area within which the individual is at liberty *from* human interference, in the pursuit of paths to possible choices or actions, and if that area is violated by others, “[the individual] can be described as being coerced, or, [he or she] may be, enslaved.”<sup>15</sup>

Coercion, the key impediment to experiencing freedom within this tradition of thought, is not an unlimited term encompassing “every form of inability”; rather, Berlin argues, to be coerced is to face, within the area in which the individual could otherwise act, “the deliberate interference of other human beings.”<sup>16</sup> Here, deliberate interference is clearly envisioned by Berlin as the intentional invasion of one person by another, including those laws or statutes that explicitly prevent human action. This criteria for interference, however, does not allow for the unintended consequences of deliberate human action, e.g. “relation(s) of dominance and subservience which may be an unintended, but which is a necessary result of arrangements made and enforced by a class of owners.”<sup>17</sup> Can unintended coercion as the result of deliberate action be neglected as an impediment to an individual’s freedom?

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\* Berlin identifies Occam, Erasmus, Hobbes, Locke, Bentham, Constant, J.S. Mill, Tocqueville, Jefferson, Burke, and Paine as advocates of negative liberty.

Berlin, in response to his critics, writes in the "Introduction" to Four Essays on Liberty that the consequence of deliberate action, "intended or unintended," may deprive individual liberty; "although only if such acts are deliberately intended . . . will they be liable to be called oppression."<sup>18</sup> This comment suggests that Berlin recognizes the unintended consequences of deliberate action as an impediment to individual liberty, though not, as C.B. Macpherson writes, "as the highest degree of depravation, namely 'oppression.'"<sup>19</sup> Thus, while Berlin acknowledges the possibility of unintended coercion, he fails to accompany it with any change in the original text, which still reads that the individual's freedom is determined by "how far [possibilities of choice] are closed and opened by deliberate human action."<sup>20</sup> Berlin, perhaps, is well aware of the consequences\* of opening his interpretation of the negative freedom position to unintentional coercion, thus choosing to avoid this particular debate. It becomes clear, however, that for negative liberty to be at stake, what is needed is not coercion as the result of deliberate intention as such, but instead "the alterability of social states and human responsibility for them."<sup>21</sup> Perhaps, further, as Macpherson notes, Berlin is justified on grounds that his interpretation is modeled on classical English philosophies which generally limit coercion to the deliberate interference of the state, pressures of social conformity, or the invasion of one individual by another, and not upon the unintended coercion of others. At any rate, Berlin concludes, "I am said to be free to the degree to which no man or body of men interferes with my activity . . . [activity] that is my own and not imposed upon me."<sup>22</sup> Thus, for Berlin, the more choices the individual

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\* For Berlin, recognizing the unintended consequences of human action as an impediment to the individual's freedom in all cases would push him into the positive position of liberty as a condition, or means to other, perhaps higher values; a position that Berlin rejects.

has, absent—albeit in a contested sense—the deliberate coercion of other human beings, the more freedom they are said to experience.

Sir Isaiah Berlin's conception of negative liberty presupposes an active political barrier surrounding that sphere of private life within which the individual may act without being interfered with by others. That liberty, however, is often difficult to discern. Carried to its logical limits, David Spitz suggests, "negative liberty implies one or both of two things: (a) that the free man is one who lives alone, for when he lives in society he inevitably collides and thus interferes with other men; or (b) that the free man is one who can interfere as much as he might like with other men, for the principle of non-interference would prohibit the imposition of any restraints even upon one who would hinder the activities of another."<sup>23</sup> This proposition notes the on-going difficulty that classic negative liberty faces in defining that area of non-interference. L.J. MacFarlane, in his review of "Two Concepts of Liberty," notes that Berlin "fully admits the difficulty of defining such an area."<sup>24</sup> In response to this obvious contention, Berlin wastes little time, arguing, "[negative liberty] could not . . . be unlimited, because if it were, it would entail a state in which all men could boundlessly interfere with other men."<sup>25</sup> In such a Hobbesian state of nature—where life is "nasty, brutish, and short"—only the strong would be free, leading to "social chaos in which men's minimum needs would not be satisfied."<sup>26</sup>

Berlin argues that unlimited negative liberty would undoubtedly lead to social chaos, or rule by the strongest. He would agree with David Spitz. "It is necessary," Spitz admits, "that some liberties be curtailed—either in the service of other goals (e.g., security, happiness, varying degrees of equality) or in the cause of certain freedoms



deemed to be more valuable than others.”<sup>27</sup> In these terms, freedom becomes an ideal. Negative liberty is an ultimate end in itself, but not the ultimate end of humanity. It is, rather, a value, or goal, among others. In this way, that area within which the individual is free to pursue independent choices, legal or social, must be secured through restraints imposed upon those who would, without such restraint, create obstacles within those paths to possible action.

This creates a glaring paradox: “restraints restrict freedom, but without restraints there can be little or no effective freedom, at least not for most men.”<sup>28</sup> Negative freedom, then, is concerned with securing the proper balance, or combination of liberties and restraints that secures, at least, a minimum area within which open paths are available to the individual. From this it follows, Berlin writes, “that there ought to exist a certain minimum area of personal freedom which must on no account be violated.”<sup>29</sup> This proposition, central to Berlin’s interpretation of the negative idea of freedom, suggests that a line must be drawn between that area of private life and public authority; indeed, as Berlin argues, “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 makes it possible to pursue, and even to conceive, the various ends which men hold good or right or sacred.”<sup>30</sup>

### **Positive Freedom**

Distinct from the negative goal of warding off interference with the individual’s choice of ends is the positive goal of achieving ends which are deemed good, or right, or worth doing or enjoying. Underpinning this concept of liberty, Cranston notes, is the

notion that human beings are rational creatures—“but not wholly rational.”<sup>31</sup> Human beings, positive theorists believe\*, are consistently subjected to irrational impulses and desires. Thus, Cranston writes, “the mere absence of constraint is not a sufficient condition of human freedom and hence not an adequate definition of the ‘freedom’ we speak of.”<sup>32</sup> Freedom in the positive sense expands the term “liberty” or “freedom” to “the exercise of the rational will.”<sup>33</sup> This exercise of the rational will, Berlin writes, is “to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices and able to explain them by references to my own ideas and purposes.”<sup>34</sup>

The positive libertarian, Berlin writes, asks “What, or who is the source of control or interference that can determine someone to do, or be, this rather than that?”<sup>35</sup> Ultimately, positive thinkers answer this question in terms of independent conscious purposes, where the source of control is the enlightened individual, governing the self in accordance with a conscious understanding that irrational desires and impulses are many, and that they must be “brought to heel.”<sup>36</sup> This suggests that human beings, rather than a “mere nexus of conflicting desires,” are constituted by, “a hierarchy of desires,” some more lasting and essential to human nature. Human nature, Cranston writes, are composed of “the desires sanctioned by human reason,” defined as, “man’s peculiar and essential characteristic.”<sup>37</sup> Willed human action, proceeding towards those ends that reason has revealed, exhibits the unique and essential nature of human beings.<sup>38</sup> Positive liberty, therefore, is “knowledge both of [the ‘true’] ‘self’ and of the means appropriate to its realization.”<sup>39</sup> In this way, liberty is a *means* to a higher end. Freedom is no longer the mere removal of constraint, but the capacity or ability, to achieve “truly” conscious

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\* Berlin cites Plato, Epictetus, St. Ambrose, Montesquieu, Spinoza, Kant, Herder, Rousseau, Hegel, Fichte,

understanding of the self, and apply that knowledge in the participation of self-government or self-mastery.

Treating freedom as a means to a higher end presupposes that a crucial element in determining freedom is the individual's capacity to formulate those "higher" or "good" desires, values, and goals. Positive freedom is not simply freedom of uncoerced choice, or the freedom from barriers to a possible multiplicity of choice, but the freedom, or wisdom, or power, to make choices in accordance with the individual's "unfettered rational will," thus, the power to make "right" or "good" choices. In short, it is the exercise of particular, positive means to achieving particular, positive values. Expanding the notion of liberty beyond freedom from obstruction, positive freedom implies that the individual must be at liberty to do what he or she *ought* to do, without being a slave to irrational impulse, ignorance, error, or oppressive social, political or economic conditioning. It is activity as such, not merely the possibility of activity. Within this tradition, Berlin finds, the individual wishes "to be somebody, not nobody, a doer—deciding, not being decided for, self-directed and not acted upon by external nature or by other men as if [the individual] were a thing, or an animal, or a slave incapable of playing a human role, that is, of conceiving goals and policies of [the individual's] own and realizing them."<sup>40</sup>

It naturally follows that positive liberty seeks to identify freedom with notions of the "true" self. Defenders of this position suggest that fundamental, rational self-government can only be attained if the individual directs the self according to those standards that comprise the values, interests, and plans "truly" making up the higher or

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Marx, Bukharin, Comte, Carlyle, and T.H. Green as advocates of positive freedom.

good or better life. The individual is free, therefore, only as long as the ability, or fitness to govern as a full *human* being is achieved. Positive, or “true” freedom is experienced when the individual realizes the “true” self, wills to act in accordance with the “true” self, as well as retain the capacity to fulfill that will in accordance with the “true,” objective self, objective “natural” standard, or “higher” law.

### **The Usefulness of this Distinction for Political Inquiry**

Sir Isaiah Berlin’s lecture, distinguishing two concepts of liberty within the history of ideas, reflects the most celebrated, and widespread theme recurrent throughout his many essays, lectures and conversations: value-pluralism. Whether discussing the originality of Machiavelli, the purpose of philosophy, or dissenting against determinist, relativist, empiricist, or positivist thought, Berlin is deeply concerned and aware of his philosophical grounding. “The simple point which I am concerned to make,” Berlin states in response to his critics, “is that where ultimate values are irreconcilable, clear-cut solutions cannot, in principle, be found.”<sup>41</sup> To deny such a proposition, Berlin argues, is to take a false *a priori* view of what the world is like.

In “Two Concepts of Liberty,” Berlin extends his value-pluralist thesis to include the collision of distinct concepts, or values, within the broader concept or value of liberty; namely, the incommensurable distinction between “positive” and “negative” freedom. Critics, however, such as Gerald MacCallum, argue that distinctions between “kinds” of freedom result in unintelligible, spurious definitions, due to the failure of fully understanding the conditions under which liberty is comprehensible. An examination of these arguments, and Berlin’s implied response, will further clarify the definitional, and

logical distinction Berlin makes between these two concepts of freedom as well as make a case for the usefulness of such a distinction.

Gerald MacCallum, in his essay “Negative and Positive Freedom,” challenges Berlin’s claim that distinguishing between concepts of liberty is useful in political inquiry. Rather, he argues that Berlin’s distinction is based upon a serious confusion about the nature of freedom itself. MacCallum claims that to speak intelligibly about the nature of liberty, one must regard, in all cases, freedom as a condition that is, “always one and the same triadic relation.”<sup>42</sup> For MacCallum, the freedom of an individual ( $x$ ) is contingent upon the removal of some constraint ( $y$ ) in his or her effort to perform some action, or achieve some condition of character ( $z$ ). This interpretation is an attempt to frame, within a formal system, all essential questions, conditions and inquiries into the nature of social and political freedom. Here, freedom is considered a social relation where ( $x$ ) ranges over all variable agents or individuals, ( $y$ ) ranges over all variable obstacles or “preventing conditions,” and ( $z$ ) ranges over all potential actions, conditions of character, or circumstance.<sup>43</sup> The foundation of MacCallum’s claim is that different views on the nature of freedom must be recognized, not as fundamentally distinct concepts of liberty, but distinct disagreements on what is understood as the possible ranges of the term variables ( $x$ ), ( $y$ ), and ( $z$ )—e.g. whether obstacle ( $y$ ) must be the result of an intended or unintended action.

MacCallum argues that the negative characterization “freedom from” and the positive characterization “freedom to” together consist of “a genuine confusion concerning the concept of freedom,” and fall outside the triadic equation necessary for intelligible analysis. In other words, these characterizations suppose that freedom could

be either of two dyadic relations.<sup>44</sup> These dyadic characterizations, he continues, do not distinguish two wholly discrete types of liberty. Instead, they focus on one or the other of two features prevalent in *all* cases of liberty; that is, MacCallum argues, in *every* case, “. . . freedom is always *both* freedom from something and freedom to do or become something.”<sup>45</sup> “Consequently,” MacCallum writes, “anyone who argues that freedom *from* is the ‘only’ freedom, or that freedom *to* is the ‘truest’ freedom, or that one is ‘more important than the other,’ cannot be taken as having said anything both straightforward and sensible about two distinct kinds of freedom.”<sup>46</sup> According to MacCallum, attempting to answer the question, “When are persons free?” by distinguishing between fundamentally opposed conceptions of freedom results in placing inappropriate focus on only one aspect of, or placing undue importance on, one element or variable of what is always present in any case of freedom.

MacCallum’s formal triadic structure for defining intelligible conditions under which freedom can be conceptualized relies on a formal schema of three discrete variables: “on the (‘true’) identities of the agents whose freedom is in question ( $x$ ), on what counts as an obstacle to or interference with the freedom of such agents ( $y$ ), or on the range of what such agents might or might not be free to do or become ( $z$ ).”<sup>47</sup> In contrast to MacCallum, Berlin argues that basic liberty remains a dyadic relation, i.e. the mere removal of restraints imposed by other human beings as such. John Gray writes, “an agent may wish to be without a constraint, and yet have no specific action he wishes to perform.” In this case, a jailed individual ( $x$ ) may wish to have his or her jail cell unlocked ( $y$ ), yet have no idea what course ( $z$ ) to pursue after he or she is free to leave the cell, he or she may even choose to remain in the cell. As Zygmunt Bauman and Maurice

Cranston suggest, freedom is essentially a social relation concerning agents, obstacles, and *possible* actions or conditions of character. Thus, whether the individual chooses to perform a certain action (e.g. leaving the jail cell and going to night school) is inconsequential as long as the opportunity is provided. Thus, I find that MacCallum's use of a triadic structure is a responsible, and conceptually sound analysis. However, the single, linear triadic relation that MacCallum provides for both the positive and negative ideals fails to fully address the distinction between these ideals. In short, MacCallum simplifies the distinction too much, neglecting the ability or capacity of making or limiting choices.

MacCallum's claim is rooted in the notion that intelligible conceptions of freedom only consist in the *absence* of obstacles, thus, opening doors to possible action.

MacCallum's arguments against the distinction between positive and negative liberty is rooted in his belief that liberty, in all cases, concerns the removal of some activity, never the implementation or presence of activity. This interpretation, however, is unclear and insufficient in accommodating the positive ideal which calls for such presence, e.g. the presence of the "rational" will. MacCallum's error lies in supposing that the identification of the distinguishing features of the concept of liberty ( $x, y, z$ ) is an easy and unproblematic process.<sup>48</sup> Specifically, he errors in assuming that features of the positive ideal, once identified, will comfortably, and intelligibly fit within his triadic relation.

In assuming that all conditions of freedom include both "freedom from" and "freedom to," MacCallum attempts to question those, like Berlin, who insist that a distinction can be made. Arguing that freedom is a condition merely concerned with the

absence of barriers, MacCallum simplifies the positive and negative ideals by arguing that an individual experiencing negative liberty—“free from” some obstacle—logically experiences positive liberty—the “freedom to” access those paths that are opened, pursue rational actions, or achieve specific conditions of character—thus rendering the individual free. This interpretation, however, underestimates the extent of the positive and negative ideals. As previously noted, positive liberty represents a means, or capacity or power, to achieve certain conditions of character, rather than the mere removal of obstacles to possible action. Within MacCallum’s interpretation, the ideal of positive liberty is downplayed in providing the means to propel individuals along possible moral or good paths.

MacCallum’s triadic concept of liberty as the absence of obstacles detracts from acknowledging the full effects of achieving positive notions of liberty as a means or capacity. In his essay “Conceptions of Liberty in Political Philosophy,” John Gray agrees that MacCallum’s claim of producing a formal scheme within which all discourse about social freedom may be framed is, “unacceptably restrictive in that it limits the range of coherent conceptions of [liberty].”<sup>49</sup> That is, substantively, the triadic relation within which MacCallum views all conditions of liberty takes too much for granted. “Filling in the blank spaces [x, y, z] in MacCallum’s analysis,” Gray writes, “involves committing oneself to specific uses of other, no less disputed concepts.”<sup>50</sup> These latter concepts—intelligible definitions of what characterizes an individual (rational v. irrational), considerations of what constitutes a preventing condition (deliberate interference v. natural impediment), and what constitutes actions or conditions of character (multiplicity of unfettered choice v. “rational” self-direction)—are the collective criteria for



determining an intelligible concept of social or political liberty, yet are themselves so contestable that they “may be used to promote opposed conceptions of freedom.”<sup>51</sup>

MacCallum’s aim, he assures his reader, is to discredit the distinction between conceptions of liberty, not argue that positive or negative liberty are the “true” forms, or only forms worth acknowledging.<sup>52</sup> The result, nonetheless, is an apparent promotion of the negative position, leaving positive notions of liberty in jeopardy of being abandoned, and, upon abandoning the positive ideal, claiming the distinction inappropriate.

“Whenever the freedom of some agent or agents is in question,” MacCallum proclaims, “it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something.”<sup>53</sup> While MacCallum’s term variables of agents, obstacles, and actions is logically sound in determining the freedom of individuals, locking that freedom within the triadic relation of the absence of obstacles, thus assuming the achievement of certain conditions, in every case, is inappropriate. The removal of obstacles does not create, or equate to, the positive notion of freedom as a means or capacity. “[Positive] freedom,” Cranston writes, “is not just something that stands opposed to any one of many possible constraints and burdens . . . it is something to be realized . . . in self-discipline, [and] in the maintenance of reason’s proper authority.”<sup>54</sup> Thus, in the positive sense, MacCallum’s triadic definition is limited, because it fails to incorporate the presence of activity—the *realization* of the “rational” will—associated with the positive ideal.

Berlin’s analysis, in contrast, reveals that a clear cut distinction does exist, and is generally useful for political inquiry. Berlin’s interpretation of negative freedom puts significant focus upon those obstacles that infringe the individuals’ minimum area of

non-interference, limiting choice. Berlin writes, “Political liberty in this sense is simply the area within which a man can act unobstructed by others . . . if this area is contracted by other men beyond a certain minimum, I can be described as being coerced.”<sup>55</sup> In contrast to this negative view, Berlin further argues that the *absence* of something may equally constitute an obstacle to experiencing freedom. As David Spitz suggests, “the quest for self-realization . . . is not the same thing as its achievement.”<sup>56</sup> The positive ideal, therefore, surpasses the mere identification of what the *quest* for self-realization entails—going beyond opening paths to possible action. Berlin suggests that the individual must experience the capacity, or ability to successfully complete the quest for self-realization. This ideal suggests that an individual who is incapable, ignorant, or faces restricted access to the achievement of experiencing his or her “true” self, is as unfree as the individual who is knowledgeable yet faces deliberately constructed obstacles. In the former case, freedom is contingent upon the removal of that obstacle, while in the latter case, the individual must be guided, tutored, or provided the power or capacity necessary to achieve the ideal. Positive freedom, therefore, requires the *presence* of some positive force or capacity to free the individual; that is, freedom is a condition where the individual is at liberty to achieve “true” self-mastery.

It is upon these different interpretations of what constitutes an obstacle to experiencing freedom that a clear and useful distinction can be drawn between negative and positive liberty. Berlin addresses MacCallum’s claim: “[Negative libertarians] want to curb authority as such. [Positive libertarians] want it placed in their own hands. That is a cardinal issue. These are not two different interpretations of a single concept, but two profoundly divergent and irreconcilable attitudes to the ends of life.”<sup>57</sup> MacCallum’s

triadic interpretation of liberty as intelligible only in terms of the absence of obstacles is, if one is to accept the possibility of the positive ideal, self-defeating. As Cranston writes, achieving freedom in the positive sense “[is] the frustration of non-rational usurpation of the human will.”<sup>58</sup> Thus, the positive ideal is logically intelligible in the positive terms of achievement or presence, not absence. For this reason, John Gray finds that MacCallum’s definition is clearly insufficient: “MacCallum’s scheme cannot accommodate such usages . . . [as] *capacities* of rational self-determination.”<sup>59</sup>

It follows that intelligible statements regarding the positive *presence* of something (e.g. capacity of rational self-determination) as a means to experiencing liberty logically requires a wholly distinct triadic relation; or, as Gray cites Felix Oppenheim<sup>60</sup>, a triadic relation that allows for the incorporation of the clearly distinct positive notion of freedom as a means or capacity. Such a statement may read: in relation to (*y*) individual (*x*) is free (not free) to become or achieve (*z*). In this schema, variable (*y*) extends beyond mere “preventing conditions,” to include “positive conditions”—capacities, powers, or abilities—an extension that MacCallum fails to adequately address.

Berlin insists that it is important and useful to recognize this conceptual distinction because “each [concept of liberty] makes absolute claims.”<sup>61</sup> Berlin argues that to discredit or fail to recognize the distinction represents “a profound lack of social and moral understanding.”<sup>62</sup> It is important to note, however, that although Berlin provides a useful descriptive distinction between two concepts of liberty, the boundary between them is not necessarily clear-cut in their application. Indeed, many thinkers embrace liberty both as an end in itself, valuing the choices the individual is provided, as well as providing a means to other values. MacCallum, in his essay, also raises concerns

regarding the use of this distinction to classify “the fundamental issues separating [political] writers on freedom.”<sup>63</sup> He argues, soundly, that this fundamental distinction is not readily apparent “no matter how the writers are arranged into ‘camps.’” While this is true for purposes of classifying thinkers, the distinction remains important when considering Berlin’s interpretation of the political consequences that accompany notions of negative and positive liberty.

### Conclusion

Berlin’s lecture initially portrays the collision of two distinct notions of liberty within the history of ideas. Essentially, Berlin notes, the answers to the questions, “How much am I governed?”, accompanying the negative goal of warding off obstructions to possible action, and “By whom am I governed?” accompanying the positive goal of rational self-mastery, “may, on the face of it, seem concepts at no great logical distance from each other.”<sup>64</sup> Both concepts rest upon a common foundation: “To coerce a man is to deprive him of his freedom.”<sup>65</sup> He insists, however, that these two questions are neither identical nor the difference between them insignificant. While sharing a common root, “the capacity for choice among alternatives,” and sharing the notion that liberty is “impaired or diminished as the capacity or power of choice is impaired or diminished,” they differ on what factors conceptually limit that freedom, and further, what factors are necessary for the individual to experience freedom.<sup>66</sup> While the negative libertarian seeks their freedom in the maintenance of an independent area of action, maximizing a multiplicity of independent choices, irrespective of the outcome, the positive libertarian seeks their freedom in the quality of choice—choosing values, desires and wishes that

accord with their true, rational self. Thus, while at times they may not be kept wholly distinct, their general differences remain.

In the following chapter, the political consequences of these two concepts of liberty will be examined in detail. It will be demonstrated that, if negative liberty presupposes a multiplicity of choices among neutral alternatives, and positive liberty presupposes the conditions or quality of choice in accordance with the rational will, then the consequences prove, initially, to be embedded in the struggle between democratic and anti-democratic thought.

## CHAPTER THREE

### THE POLITICAL CONSEQUENCES OF NEGATIVE AND POSITIVE LIBERTY AS EMBEDDED IN THE STRUGGLE BETWEEN DEMOCRATIC AND ANTI-DEMOCRATIC THOUGHT

David Spitz, writing the introduction to Patterns of Anti-Democratic Thought, comments on the ambiguity of democracy in Western political thought, “Few words in our political lexicon have so challenged the logic and the ingenuity of men, and few have proved so provocative and protean.”<sup>1</sup> Indeed, the contemporary literature on democracy reveals the painful truth that there are perhaps as many definitions or theories of democracy as there are political theorists expounding on the nature of democratic association. While this may provide, according to John Dryzek, an insurmountable challenge for the individual seeking a consensus on the meaning or essence of democracy, it does not limit one from entering into the contested conceptual waters.<sup>2</sup> This, perhaps, is part of the appeal. For if democracy was an uncontested term with agreed upon meaning, it would lose its essential characteristic, namely, as Dryzek observes, that “the democratic life in large part consists in searching for democracy.”<sup>3</sup> Thus, seeking to reconcile Berlin’s interpretation of positive liberty with the struggle for democracy is not only a descriptive project, but requires understanding the *values* of democracy as well.

Sir Isaiah’s interpretive distinction between two concepts of liberty, while not explicit in its connection with political association, implies the alignment of negative liberty with democracy, and positive liberty its enemy. It must be noted, however, that their association or disassociation with democracy is, like the concepts of liberty and democracy, contested. Thus, while negative liberty reveals a natural alignment with the

procedures of democracy, this alignment is subject to challenge and debate when considering the substantive outcomes of that procedure. Similarly, while positive liberty may support political procedures that are anti-democratic, it may seek outcomes that secure, and even foster democracy. Before attempting a reconciliation, however, it is important to show how the political consequences of Berlin's distinctive concepts of liberty generally align with democratic and anti-democratic thought. This examination must begin with a broad overview of democratic theory, and then a more detailed analysis of how democracy, like liberty, is conceived as both a procedural and as a substantive ideal.

### **Democratic Theory: An Overview**

Within the history of democratic thought, both political and philosophical, democracy has been broadly interpreted as both an evaluative term, referring to a normative standard of political association promoting such values as individual liberty, equality, and civic virtue, and as a descriptive term, focusing on the empirical structures and institutions that maintain the constitutional responsibility of the rulers to the sovereign majority.<sup>4</sup> Within these broad categories, democracy can embrace a number of values that can be incommensurate and thus liable to conflict. It soon becomes apparent, one critic writes, "if democracy is both an ideal and an attainable actuality, how are we to judge when an actual regime is sufficiently proximate to the ideal that we can properly regard it as a democracy?" The answer lies, perhaps, in the notion that twenty-five hundred years of democratic thought has generated a term, not of restricted and specific meaning, but the vague endorsement of a popular idea.<sup>5</sup> Thus, while democracy is not a

“static institutional construct,” it does retain characteristics that allow for its distinction between democratic and dictatorial regimes. While “the essence of democracy” maybe that its “identities and relationships are always subject to challenge, disturbance, and reconstruction,” there are a number of fundamental identities and relationships that must be present for a governmental system to be democratic.<sup>6</sup>

As a form of political organization, democracy has been a concern of political theorists since the dawn of Western political thought. First conceptualized by Herodotus in the fifth century B.C., appearing in his *History*, the term compounded two Greek words: *demos*, defined as “the people,” and *kratein*, defined as “to rule.”<sup>7</sup> Literally, Herodotus intended the term to mean “rule by the people.” Throughout its history, however, especially since the eighteenth century, compelling questions have been raised in regards to this fundamental tenet of democracy: who properly constitutes “the people,” and what does “to rule” entail? Political thinkers have returned myriad theoretical answers, traditionally cast into a typology of two major headings: normative (evaluative/substantive) theories, and empirical (descriptive/procedural) theories.<sup>8</sup>

Normative theories of democracy embrace certain objective values and norms that political association ought to enhance. Analytically, these values can be distinguished by two schools of political thought—the individualistic/liberal and collectivist/republican traditions. The liberal tradition can be traced to John Locke who championed the individual as an “absolute lord of his own person and possessions, equal to the greatest and subject to nobody.”<sup>9</sup> Following in this belief, J.S. Mill and Thomas Jefferson considered individual liberty to be an “inalienable,” “natural,” and “self-evident” right.<sup>10</sup> Political association, therefore, should not promulgate in law any specific form of the



good life. Rather, it should assert a foundation of rights that respects the individual as an independent self, capable of pursuing their own values and ends.<sup>11</sup> Within this tradition the fair procedures of democracy are held as a priority over achieving any particular end.

Contrary to the elevation of individual liberty, the collectivist, or republican tradition advocates self-government, and embraces the capacity of such political association to promote the general welfare of the community—the “common good” or “general will”—as a collective body of equal individuals.<sup>12</sup> Self-government, in this tradition, requires a deliberative system of popular control that cultivates engaged, self-governed citizens who are equally capable of shaping the fate of the political community. Rather than remaining neutral towards those values and ends its citizens pursue, this tradition requires a politics that enriches those necessary civic virtues for self-government—a knowledge of public affairs, a sense of belonging and security, a concern for the development of the community as a whole, and a moral bond with the community.<sup>13</sup> These two traditions of democratic association, the former remaining neutral to the processes of democracy, while the latter holds a higher standard, are clearly distinct, and thus, liable to conflict.

Procedurally or empirically, democracy—liberal or republican—refers to those conditions, propositions, practices and institutions that can be observed, operationalized, and empirically measured.<sup>14</sup> The empirical goal, promulgated by E.F.M. Durbin, contrasts with the idealism of normative definitions, seeking rather “to discuss a narrower thing, a single political habit, a method of taking political decisions, a practicable and actual condition of certain societies.”<sup>15</sup> Following Durbin, Robert Dahl, E.E. Schattschneider, and Seymour Lipset argue that democracy should be defined

operationally, organized around a series of “conditions that exist to a relatively high degree.”<sup>16</sup> These conditions are rooted in “conflict, competition, organization, leadership, and responsibility,” foster complex, open societies, resulting in political systems which supply “regular constitutional opportunities for changing governing officials . . . [and] a social mechanism [e.g. voting, parties etc.] for the resolution of the problem of societal decision-making among conflicting interest groups.”<sup>17</sup> In short, empirical theories seek to define democracy merely through its unique processes.

This dual typology of democratic thought—normative and empirical—is useful in distinguishing between two broad approaches to democratic theory. “The term democracy,” Giovanni Sartori writes, “has not only a descriptive function or denotative function, but also a normative and a persuasive function.”<sup>18</sup> Thus, neither approach alone represent a discrete theory capable of capturing the dual goal of defining the descriptive and evaluative realities that the term democracy has come to embody. While both normative traditions—liberal and republican—are concerned with the maximization of values and norms, they fail to adequately address the institutions and practices that make the maximization of those values a political reality. Thus, “without a basis of fact,” Sartori writes, “the democratic prescription is self-denying.”<sup>19</sup> Contemporary democratic thought must incorporate the political and social institutions that provide for the basic values that a democratic society offers.

Similarly, while empirical theories embrace the procedures of democracy, such a narrow descriptive approach risks neglecting those values and norms that democracy, as a political ideal, embraces. “Without its ideals,” Sartori argues, “a democracy cannot materialize.”<sup>20</sup> Such in-depth focus on empirical processes may result in blurring the

values and norms that makes democracy politically attractive. “Critics,” one observer writes, “contend that the process of collective decision-making no matter how ‘democratic,’ cannot be justified unless it produces—or at least tends to produce—desirable results.”<sup>21</sup> For example, purely descriptive inquiries may identify contemporary systems as “democratic”—the collective resolution of conflicting interests through a process of discussion and election—but fail to address the possibility that the outcomes of such decisions may be opposed to the popular ideals and values that democracy seeks to embrace. Thus, while a despotic ruler may be elected through a democratic process, he or she may dissolve those structures and institutions that promote the popular ideals and values that democracy embraces—individual liberty, or the cultivation of civic virtue.

A useful account of democratic society, therefore, must address both normative and empirical theory. “The problem of defining democracy,” Sartori concludes, “is twofold, requiring both a descriptive and a prescriptive definition. One cannot exist without the other and, at the same time, one cannot be replaced by the other.”<sup>22</sup> Here, Sartori reveals a complex reality within democratic thought. Descriptive, empirical definitions focused on the process of democracy, and prescriptive, normative ideals focused on the outcome of democracy, cannot always be reconciled. In other words, the liberal ideal and the republican ideal can have an inconsistent relationship with the empirical procedures that democracy requires. While the liberal tradition, concerned with maintaining individual liberty through the promotion of fair procedures over particular ends, is consistent with procedural models of democracy, there does arise within this tradition an anxiety about securing those conditions which may foster the development of the *human* being—the capacity to make the best of oneself. This desire,

exemplified in the reform liberalism of T.H. Green, creates an implicit tension with the processes of democracy. The collectivist tradition creates a more explicit tension with the processes of democracy. Concerned with securing specific outcomes, republican theories may seek to usurp the priority of fair procedure.

An examination of these theories—liberal and republican—establishes a theoretical foundation that will facilitate the alignment of Berlin’s conceptions of liberty with democratic thought. It must be clearly noted that in this analysis, the liberal tradition will be addressed only in its basic sense—the ideal of the free self capable of pursuing independent values and ends. In this tradition the fair procedures of democracy are held as a priority over achieving particular ends. Thus, synthesizing the normative and empirical aspects into a coherent theory of democracy may be called liberal/procedural democracy. In contrast, the republican tradition reveals an explicit tension with the fair procedures of democracy, thus, this analysis will focus on the outcomes of the democratic process. In this case, synthesizing the normative and empirical aspects into a democratic theory may be called republican/substantive democracy. It must be noted that there will be some overlap within these sections, especially those descriptions of empirical democratic processes. These processes are not limited to the liberal tradition, but for consistency and analytic clarity, are included with the analysis of liberal democracy. Their alignment will become clear later in the chapter.

### **Liberal/Procedural Democracy**

Robert Dahl argues that the procedural aspect of any democracy is its “unique process of making collective and binding decisions . . . by which ordinary citizens exert a

relatively high degree of control.”<sup>23</sup> Normatively, liberal democracy seeks to underpin this procedural element with its belief in the capacity of the individual to pursue values and ends in free and independent ways. Thus, the liberal tradition links Dahl’s empirical definition with the belief that government ought to provide a neutral framework of rights and laws that recognizes persons as free and independent selves, with the capacity to choose their own values and ends.<sup>24</sup> “[A]s the ends of government is to promote the free life of all its citizens,” A.D. Lindsay remarks, “all citizens must have their say as to how that free life is actually being hindered and how far the work of government is actually removing those hindrances.”<sup>25</sup> Here, Lindsay captures the interrelatedness of the normative and empirical goals of liberal democracy. Government, first and foremost seeking to assert the priority of individual values and ends over any particular conception of the good life, must therefore promote a procedural element that allows for all citizens to have an equal voice in seeking that goal.

Unlike other systems, the democratic process—both liberal and republican—grants citizens the opportunity to exercise an element of power over the decision-making process, operationally, through any number of practices or institutions that provide consent, debate, deliberation, amendment, and the reigns of accountability. Broadly, these tenets are embodied in the notion of popular control of the government. A.D. Lindsay and Ernest Barker define this empirical tenet of democracy in terms of “government by discussion,” and suggest that such systems imply popular control through structures of election and representation. In the liberal democratic tradition, this procedural control is secured by an extensive series of civil rights that guarantee

individual liberty, protect against the arbitrary abuse of power, and provide equal access to the structures and institutions that promote popular control.

The basic feature or principle of democratic systems is the procedural control of the government; that is, “ensur[ing] that government is kept to its proper task.”<sup>26</sup> If, as in the liberal tradition, the end of the state is to enhance the ability of citizens to pursue free and independent values and ends, then the collective body of citizens must provide consent. Thus, political systems can be identified as more or less liberal democratic according to the openness and effectiveness of those sanctioned practices and institutions that provide the citizenry the capacity to control how the decision-making process affects individual liberty (in its broadest sense). Early democratic theory conceptualized this kind of popular control through the identification and promulgation of “the voice of the people.” Contemporary political realities, however, have transformed this traditional idea “into something very different from anything Jefferson and Lincoln ever dreamed.”<sup>27</sup> Geographically immense nation-states, populated by tens or hundreds of millions of citizens, embracing myriad cultural and social traditions, have altered classical notions of the people’s will, let alone facilitating the translation of that will into popular control. In this vein, Barker writes, “the will of the people is not a single will . . . identified with the will of the whole.”<sup>28</sup> For Lindsay, present society precludes the classical notion even further, stating that the voice of the people is “mere mythology,” because “the real discussion and largely the real government is in the hands of the committee who prepare[s] the business.”<sup>29</sup>

It is the empirical concern of contemporary liberal democratic systems to maintain open, popular control over those governing bodies who directly participate in

decision-making. "Democracy is not" Lindsay observes, "properly speaking, government by the people. For the people . . . cannot govern."<sup>30</sup> Indeed, contemporary, indirect democracy relies, not on popular government as such, but on the popular control of the government or regime. "Democracy," Robert MacIver concurs, "is not a way of governing . . . but primarily a way of determining who shall govern, and broadly, to what ends."<sup>31</sup> Within this normative tradition, these "broad" ends are related to the individual's "free" life. Thus, if the individual is incapable of determining all governmental policies that might affect his or her ability to pursue independent values and ends, then that individual must at least act as "the principal who holds [the regime] to account."<sup>32</sup> For Barker and Lindsay, when society has exceeded beyond the limits of direct democratic participation, accountability relies on the operational dimension of "government by discussion."

Barker and Lindsay presume that the "free give and take" of organized deliberation promotes popular control. Underpinned by its normative element, liberal democracy presupposes that all citizens, if they so choose, have something to contribute in the process of popular control. Thus, the process must provide a system of basic political rights, including freedom of speech, association, and travel. These rights, secured to all adult citizens without regard to race, sex, religion, or class, allow for a wide variety of ways of life and opinion.<sup>33</sup> In the context of these political freedoms, citizens are at liberty to join into voluntary, informal and uncompelled congregations, "air their difficulties and even their discontents," and thus act as a sounding board of the government's progress. Through further collective discussion, a multiplicity of organized, competing groups may emerge. Then, through discussion, the narrowness and

one-sidedness of individual points of view may be brought together, corrected and compromised to serve the democratic character of change, experiment and initiative.<sup>34</sup>

Thus, it is through open discussion, in the context of political freedoms, that the opinions, thoughts, and concerns of each member may be enlisted in what Barker describes as, “the mutual interchange of ideas, on mutual criticism of the ideas interchanged, and on the common and agreed choice of the idea which emerges.”<sup>35</sup> Such a process of organized, deliberative discussion, it can be inferred, results in aggregate choices and ideas, which are then translated, through the process of election, into popular control. This, of course, is merely an ideal.

Normatively, the liberal tradition is epistemologically skeptical of government and does not suppose that each citizen will contribute equally. “[Liberal] democracy assumes that each member of the community has something to contribute if it can be got out of [him or her],” writes Lindsay. “It does not for a moment assume,” he continues, “that what each member contributes is of equal value.”<sup>36</sup> The liberal tradition, as a theory of government with individual liberty as its central goal, argues that politics should be neutral to the thoughts and actions of its citizens. Thus, some persons may seek to espouse a higher knowledge of public affairs, a necessary precursor for substantial participation in political association, while others pursue different ends, resulting in a limited knowledge of public affairs, and thus, a limited contribution. Indeed, within this tradition, persons, as free and independent selves capable of choosing values and ends for themselves, may choose to be politically active, or choose not to participate at all.

Empirically, the processes of open discussion and decision-making do not presuppose the realistic inclusion of each citizen that is affected. “The great States of our



modern world,” Barker writes, “seem precluded by their very size from acting as circles of discussion.”<sup>37</sup> The formulation, discussion, adoption and maintenance of popularly agreed initiatives must, therefore, be realized through a hierarchical series of structures that aggregate and translate political discussion. In this system of indirect democracy, “[t]here cannot possibly be one enormous discussion,” Lindsay writes, “but there may be smaller areas of discussion, and the results of these may be conveyed by the representative to a further discussion, and so on.”<sup>38</sup> Thus, “what matters,” Lindsay insists, “is not that the final decision of government should be assented to by everyone,” but that everyone should have equal access to make his or her contribution to that decision.<sup>39</sup> In short, a system where it is presupposed that persons can agree on common action while respecting one another’s capability to choose their own values and ends, within a common framework or system of rights, “can best be attained . . . by discussion.”<sup>40</sup>

It is through the processes of institutional and structural discussion that popular control is maintained in any democracy—liberal or republican. Barker and Lindsay argue that such popular control arises out of the formal processes of deliberation—through a number of stages, proceeding through a series of concentric circles, beginning, Barker writes, “on the circumference, with general issues,” and moving, “inwards toward the center, end[ing] in concrete decision.”<sup>41</sup> The circumference represents the existence of open, organized and official opposition(s) who debate, discuss, and formulate issue-oriented programs for general election. Discussion then proceeds through a process of “grand debate,” concluding in the election of one of the programs, platforms, or parties—embodied in the elected representative(s). Lindsay writes, “to ensure that government is

kept to its proper task," the electorate vote, representing a judgement on the results of the previously adopted program, and providing "approval or disapproval of what has happened."<sup>42</sup>

"The growth of [liberal] democracy," MacIver succinctly portrays this normative and empirical ideal, "has always been associated with the free discussion of political issues, with the right to differ concerning them, and with the settlement of the differences . . . [by] the counting of votes."<sup>43</sup> A necessary condition of liberal democracy requires that opposing thoughts and actions remain at liberty to be expressed, to appeal to others, to promote association, "and so to compete for success before the tribunal of public opinion."<sup>44</sup> In the liberal tradition, the democratic process embraces toleration, fair procedures and most important, a respect for individual political rights guaranteeing individual liberty. These values, working broadly within the processes of discussion, compromise and election recognize the individual's freedom to pursue independent values and ends in free and independent ways.

### **Republican/Substantive Democracy**

The republican tradition stands in contrast to such liberal critics who argue that democracy is fundamentally a set of observed structures and institutions that ensure, not a particular conception of the good life, but popular control of the government, asserting the individual's liberty to choose for themselves their own conception of the good life. Republican democracy, rather, seeks self-government. Initially, self-government does not seem at odds with the liberal ideal. For, participating in political association may be a chosen end of the liberal-minded individual. As Michael Sandel writes, however,

“sharing in self rule involves something more.” It requires, he continues, “deliberating with fellow citizens about the common good and helping to shape the destiny of the political community.”<sup>45</sup> Sandel argues that to deliberate well about the common good requires more than the liberal ideal of common toleration and respect for persons choosing for themselves, independent values and ends. It further requires education in public affairs, a sense of belonging and security, a concern for the whole, and a moral bond with the community.<sup>46</sup> “To share in self-rule,” Sandel concludes, “requires that citizens possess, or come to acquire, certain qualities of character, or civic virtue.”<sup>47</sup> In this way, the republican ideal cannot be neutral to the values and ends that its citizens pursue.

While the republican ideal may share in those empirical structures and institutions that make any democracy a political reality—circles of discussion, elections held at regular intervals, a system (albeit different than its liberal counterpart) of civil rights and liberties—it further entails a formative politics that cultivates those civic characteristics that make self-government possible. In this tradition, common deliberation about the common good is the central goal of good government.<sup>48</sup> The expression of the common good, according to Sandel, “requires political communities that control their destinies, and citizens who identify sufficiently with those communities to think and act with a view to the common good.”<sup>49</sup> A central aim of republican democracy, therefore, is the promotion of common virtue, common morality and common understanding. These values are the precursors to good citizenship. In this way, political association is, of necessity, concerned with those outcomes of the democratic process that will best cultivate these common values.

In the republican tradition, persons are viewed as both rulers and subjects. Democratic communities, therefore, cannot rely on the coercive force of the rulers to maintain civility among the subjects. Since there are no rulers to govern them, the citizens must learn to govern themselves.<sup>50</sup> “[A]nimated by patriotism or public spirit,” writes Steven Kautz, “democratic citizens must freely choose to serve the community . . . or they will not be found to serve the community at all.”<sup>51</sup> The ideal of republican democracy seeks those specific outcomes of the political process that will cultivate within the citizenry “a passionate identification with one’s community, a wholehearted love of the democratic republic.”<sup>52</sup> Achieving such conditions of character, it is argued, results in a citizenry inspired to participate in the deliberative life of the community. While these communal pursuits of the common good may come at the expense of private pursuits of happiness, the happiness of the republican individual is translated into, and identified with, the happiness of the community.<sup>53</sup>

Empirically, those conditions of civic character necessary for unselfish participation in the deliberative life of the community require education in public affairs, a sense of common belonging and security, and a common moral bond. In this way, the government cannot remain neutral to the values and ends that citizens espouse. Clearly, this tradition requires a sense of commonality if the community is to effectively deliberate and articulate any common good. Thus, the republican tradition argues that severe social and economic inequality undermines the character of common self-government. “A society of extremes,” writes Sandel, “lacks the ‘spirit of friendship’ self-government requires: ‘Community depends on friendship; and when there is enmity instead of friendship, men will not even share the same path.’”<sup>54</sup> Persons, therefore, must

share in common education, as well as retain a measure of social and economic security sufficient to the meaningful promotion of common understanding. Morally, too, the government cannot remain wholly neutral. For, to promote the deliberative articulation of a common good, citizens must sufficiently identify with the common moral fabric of the community. This ideal, when considering the empirical dimension of democracy, reveals a tension between fair procedure and substantive outcome.

Initially, contemporary democracy—liberal or otherwise—does not presuppose the realistic inclusion of every citizen in political association. While it is implicit in the republican ideal that everyone participate in common deliberation about the common good, it is, due to the enormity of contemporary nation-states, impossible to have one large discussion. Thus, the empirical element of circles of discussion, expositied upon by Lindsay and Barker, remain valid within republican forms of democracy. As Kautz notes in his description of the contemporary republican tradition, “there is no question of abolishing representation or any of the other liberal political institutions that filter the judgement of the people and so diminish the likelihood of folly or fanaticism.”<sup>55</sup> Thus, it appears that, empirically, republican democracy remains, at bottom, compatible with liberal democracy.

It cannot be ignored, however, that the republican ideal remains insistent on achieving specific substantive outcomes. From this acknowledged position, it may be that the opposing opinions encouraged and protected in liberal democracy are unnecessary. “On this view,” Berlin writes, “choice, like the party system, or the right to vote against the nominees of the ruling party, becomes obsolete . . . where any sign of the recrudescence of disagreement is a symptom of error and vice.”<sup>56</sup> And, this being the

case, preclude discussion altogether. This falls under the assumption that the common good is “unitary and uncontested.” In response, Sandel argues that, “[republican democracy] offers a way of conducting political argument, not transcending it.”<sup>57</sup> Thus, rather than providing a unitary way of life that precludes disagreement and discussion, this ideal seeks to foster democratic deliberation in the search of a common good. Instead of collapsing the gap between the individual and the community, this ideal seeks to fill that space with public institutions that bring citizens together in myriad capacities, both separating and relating them. Such institutions, Sandel notes, may include townships, schools, religions, and “virtue-sustaining” occupations. Empirically, therefore, republican democracy remains rooted in the processes of discussion, although in respect to liberal democracy, in a more direct and formative manner.

At this point, one finds that this dichotomy between liberal democracy, promulgating fair procedures over particular outcomes, and republican democracy, seeking those moral outcomes that will best cultivate the necessary conditions of character for self-government, illustrates the broad conflict that distinguishes negative and positive liberty. As classic negative liberty is concerned purely with the fair procedures of liberty, maximizing choice, it conflicts with positive liberty’s desire to achieve the “right” choice. These clashing ideals between democracy and liberty will be returned to in the next two chapters. Presently, it is necessary to recognize that Berlin’s interpretation of the distinction between negative liberty and positive liberty has major consequences for political association; and, that generally, these consequences are embedded in the struggle for, and over, democracy. Specifically, Berlin implicitly argues that embracing positive liberty, either in a liberal capacity, securing those conditions

necessary for experiencing liberty, or in a collectivist or republican capacity, seeking specific moral outcomes, undermine individual liberty and inevitably preclude democratic association. Beginning with negative liberty, these consequences will be examined in detail.

### **The Political Consequences of Negative and Positive Liberty**

In its classical form, negative liberty argues “that all coercion is, in so far as it frustrates human desires, bad as such.”<sup>58</sup> For the individual to seek and discover “the truth,” and to develop the self into that type of character he or she deems rational and good, an area of independent action is necessary. In this way, negative freedom contends that the availability of choice, and the ability—free from coercion—to pursue those choices, is central to determining the freedom of the individual. Freedom becomes a seemingly subjective criteria where the individual, sensitive to his or her range of choices, can determine what constitutes an independent action. As Berlin notes, however, “Freedom for the pike is death for the minnows.” Thus, securing other values at the expense of liberty (e.g. justice, fairness or equality), must depend on limiting some individual choices.<sup>59</sup> It is because of this necessary restraint of individual choice that negative liberty retains consequences for political association.

Berlin concedes that unlimited negative liberty, in its classical sense, would ultimately lead to a Hobbesian state of nature, dominated by social chaos and rule by the strongest. If social life were reduced to “jungle or a wilderness,” the individual would find the area of liberty too narrow for even the minimum development of the natural faculties which alone makes it possible to pursue, “and even to conceive, the various ends

which humans hold good or right or sacred.”<sup>60</sup> Berlin’s analysis of negative liberty results in a concern, not for an unlimited area of unfettered choice, but a limited area of protected private life, which under no circumstance may be violated. Within this area, the individual must be free to develop good and rational ends in free and independent ways, even if that means making irrational or ignorant choices. Principally, Berlin’s vision of negative liberty is measured by the area of control, not the source of such control.<sup>61</sup> Extended to the realm of political association, negative liberty is consequently concerned, not with who governs the individual, but how far the governing authority interferes with the individual.

Liberty, in the negative sense, is derived from, and ultimately parallels the protections that guarantee the openness of any society. This does not, Berlin argues, postulate an intrinsic alignment of negative liberty with any specific form of political system or government. While a “practical compromise” must be found in demarcating the “frontier” between private life and public authority, it is an ends-oriented compromise, where the means to its achievement are secondary. That is, negative liberty, valued for its own sake, is not concerned about how one’s area of independent action is established or maintained, but that it is established, and that it is not violated under any circumstance. “Just as democracy may deprive the individual citizen of a great many liberties,” Berlin writes, “so it is perfectly conceivable that a liberal-minded despot would allow [his or her] subjects a large measure of personal freedom.”<sup>62</sup> The only connection between negative liberty and an identifiable system of political association is a commitment to maintaining an open society. The consequent link between negative



liberty and an open society, however, becomes the source for its natural alignment with democracy.

While entailing consequences for political association, Berlin's interpretation of positive liberty is much more detailed in its embrace of specific forms of government. According to Berlin's analysis, positive liberty is prone to an inevitable transformation that results in the assimilation of other values as misinterpreted tenets of liberty—turning it from a doctrine of individual freedom to one of authority, oppression and slavery. “One way of making this clear,” Berlin writes, “is in terms of the independent momentum which the, initially perhaps quite harmless, metaphor of self-mastery acquired.”<sup>63</sup> Recall, the course of Berlin's lecture begins with a descriptive analysis of positive liberty, achieved when the “‘lower’ irrational will is subordinated to [the] ‘higher’ rational will.”<sup>64</sup> Berlin further argues, however, that in the course of such liberation, the individual becomes aware, “on the one hand, of a self that dominates, and, on the other, of something in them which is ‘brought to heal.’” The dominant self is variously identified with reason, or with the individual's “higher nature,” or with the “true” self, which is then contrasted with the individual's “lower” nature, irrational impulse, “my ‘empirical’ or ‘heteronomous’ self, swept by every gust of desire and passion.”<sup>65</sup> To experience “true” liberty, then, the individual must be tutored, or “rigidly disciplined” if he or she is to elevate the self to its fullest height. Within the history of ideas, Berlin argues, the perpetual division of the individual against his or her self has been prone to include, or represent an even larger gap. It is the extension of the self to include the social whole that positive liberty is transformed to a doctrine of authority.

Berlin maintains that positive liberty identifies rational self-direction as the sole purpose of human thought and action. The individual who achieves their “true” liberty by dictating their life in accordance with their “rational will” presupposes that others must also conform to a rational will as well. “How,” Berlin asks, “am I to avoid collisions with their [other] wills?”<sup>66</sup> The implication of colliding wills suggests that there must exist some rationally determined set of identical values or ends that all individuals would agree upon, and indeed, would agree upon if all were made rational. According to this position, achieving “higher” human rationality suggests that what is “truly” right for one individual must, “for the same reasons, be right for others who are rational like me.”<sup>67</sup> Thus, if nature is a harmony, as Berlin interprets, and what is “right” for one rational individual is “right” for all rational individuals, “there must exist one and only one true solution to any problem.”<sup>68</sup>

This interpretation of positive liberty suggests that all questions, social, political, moral or ethical, are solvable by any rational thinker. Human rationality, however, is fettered by irrational temptation, the conditioning influences of “unnatural” social or political relationships, or it may be, the natural incapacity on the part of some individuals. Thus, the irrational individual, unable to achieve their “true” liberty through independent reason, must depend on the help or guidance of those who are better, or wiser, or more rational. In short, some individuals will better discern the single, universally harmonious pattern into which all rational individuals fit. Inevitably, the universal nature of the “real” or “true” self is thus extended beyond the barriers of what constitutes an individual being, and, Berlin writes, is “conceived as something wider than the individual (as the term is normally understood), as a social ‘whole’ of which the individual is an element or

an aspect.”<sup>69</sup> In short, the ends of all rational beings must of necessity fit into a universal pattern, which is inevitably embodied in the authority of the social whole.

Within this tradition of thought, the social whole has taken the form of a state, exemplified by Rousseau’s “general will,” a race, embodied in the Nazi movement of the 1930s-40s, a religion, as envisioned by puritan or Christian theocrats, a tribe, or “the great society of the living, the dead and the yet unborn.”<sup>70</sup> It is, then, the program, orientation, “general will,” divine faith, or moral or ethical standard of this social whole that is identified as the “true” self, and, Berlin argues, “by imposing its collective, or ‘organic,’ single will upon its recalcitrant ‘members,’ achieve its own, and therefore their, ‘higher’ freedom.”<sup>71</sup> Compelling persons to accept the goals of the social whole is justified in the presupposition that all human conflict is due in part to the clash of rational and irrational wills, and that such clashes, if all individuals were made rational would of necessity be impossible. In fact, it is argued, the “members” themselves would pursue the social goal if they were enlightened, but do not, “because they are blind or ignorant or corrupt.”<sup>72</sup>

The political consequences of this tradition of thought reveals the necessity of political associations contingent upon a “rational state,” acting in accordance with the social whole, and interpreting the “rational frontier” of the rights that all men and women, if they were made rational, would consent. “That is to say,” Berlin writes, “such laws as they would themselves have enacted had they been asked what, as rational beings, they demanded.”<sup>73</sup> This school of thought, J.L. Talmon concurs, rests upon the assumption that, like all rational knowledge, there exists a “sole and exclusive truth in politics.”<sup>74</sup> He continues, “it postulates a preordained, harmonious and perfect scheme of things, to

which men are irresistibly driven, and at which they are bound to arrive.”<sup>75</sup> The assumption here, Berlin agrees, suggests that the existence of a single, universal, and thus natural design reduces all “true” or rational human thought and action to its social significance, and because the social is identified with the “higher” self of the individual, all thought and action falls within the compulsory authority of the political sphere.

Talmon, like Berlin, argues that the sole embrace of the positive position ends up forcing all human activity to one “plane of existence”—in this case, the political. The consequence of this analysis inevitably leads to a radical politics: “It widens the scope of politics,” Talmon writes, “to embrace the whole of human existence.”<sup>76</sup> In such a society, the public and private areas of life are blurred or fused together. The monistic political ideals of this system of thought, defending freedom as the pursuit and achievement of the “absolute collectivist purpose,” essentially ignores any notions of individualism. Within this view, the rational individual is deemed an indistinguishable agent of the social whole.<sup>77</sup> Irrational individuals, it is further contended, must be “forced” to be free.

Berlin argues that positive libertarians neglect the actual wishes of societies and men, and instead, “bully, oppress, [and] torture them in the name, and on behalf of their ‘real’ selves,” proclaiming the (true) goal of man—economic freedom, moral counseling, a productive personality—must be identical with his freedom.<sup>78</sup> Such a position presupposes the claim that an elite knows what is truly good or right for the irrational individual, “better than they know themselves.”<sup>79</sup> Coercion, as the deliberate interference of one upon another, is no longer coercion, but freedom; that is, to coerce the irrational individual is to provide that positive capacity or power to achieve “true” freedom,

whether the individual is aware of such potential for liberation through reason or not. “[I]f it is for my own good,” Berlin observes, “then I am not being coerced, for I have willed it . . . and am free (or ‘truly’ free) even while my poor earthly body and foolish mind bitterly reject it, and struggle against those who seek however benevolently to impose it, with the greatest desperation.”<sup>80</sup> Here, the positive position argues that freedom is not liberty to do what is “irrational, or stupid, or wrong.” Rather, the social whole must “force empirical selves into the right pattern,” and such action, “is no tyranny, but liberation.”<sup>81</sup> Thus, Berlin interprets the positive doctrine of “liberation by reason” as, what Cranston calls, “enforceable rational freedom.” Here, freedom requires the presence of restraint, Cranston continues, “first to assist the rational faculty in each individual to secure mastery over his non-rational faculties, and secondly, to clarify rational ends for people of limited intelligence.”<sup>82</sup>

Berlin’s interpretation of the positive doctrine as inevitably transforming into tyranny over the individual results in the political consequences covered upon in this section. Berlin sums up his interpretation of positive liberty, which has implications for democratic thought.

[F]irst, that all men have one true purpose, and one only, that of rational self-direction; second, that the ends of all rational beings must of necessity fit into a single universal, harmonious pattern, which some men may be able to discern more clearly than others; third, that all conflict, and consequently all tragedy, is due solely to the clash of reason with the irrational or the insufficiently rational—the immature and undeveloped elements in life—whether individual or communal, and that such clashes are, in principle avoidable, and for wholly rational being impossible; finally, that when all men have been made rational, they will obey the rational laws of their own natures, which are one and the same in them all, and so be at once wholly law-abiding and wholly free.<sup>83</sup>

It is clear that expanding the pursuit of liberty through reason to include the division between the rational and the irrational individual leads to societies that are closed, totalitarian\*, and anti-democratic. In the following section, these consequences, both of the negative and positive positions, will be examined in detailed juxtaposition to the processes and values of democratic theory—liberal and republican.

### **Democracy: Negative or Positive?**

In his seminal lecture, Berlin does not explicitly align either concept of liberty with any single political association or system. Negative liberty, Berlin argues, is not necessarily dependent upon democratic association. However, it can readily be seen that there is a natural alignment between those guaranteed areas of independent action that negative liberty seeks, and the institutionally guaranteed open societies that the democratic process ensure—especially within the liberal ideal. In contrast, Berlin's interpretation of positive liberty anticipates notions of self-government through the identification of a common good endemic of republican democracy. But, upon the inevitable collapse of the gap between the individual and the social whole, positive liberty results in societies that are anti-democratic, even by republican standards. By examining these two views in detail, it becomes apparent that the struggle between negative and positive liberty is as much about democracy as it is about individual liberty.

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\* Talmon identifies this kind of system as totalitarian democracy. This strain of thought treats human beings not as they are, but as they were meant to be; thus, "In so far as they are at variance with the absolute ideal they can be ignored, coerced or intimidated into conforming, without any real violation of the democratic principle being involved" (The Origins of Totalitarian Democracy, 3). While I agree with this statement, I find that for clarity and consistency the distinction can be made in accordance with David Spitz's demarcation between democratic and anti-democratic thought.

Although he may not admit as much, Berlin's analysis of negative freedom results in its natural alignment with liberal democracy. This concept of liberty, as Berlin makes clear throughout his lecture, is guided by the presupposition that individual freedom—the ability to pursue good and rational ends in independent ways—requires a maximization of individual choice, irrespective of how such choice is secured. This, the central political consequence of negative liberty, represents a focused and uncompromising concern for limiting the occasions on which the government can interfere with the individual. It is readily seen that the procedural guarantees of democratic popular control, underpinned by liberal individualism, promotes a system whose process is, at its core, founded upon a set of structures and institutions that ensure individual choices, and whose root terms promote a citizenry who maintain, albeit in a basic sense, the reigns of authority and consent, necessarily presupposing a limited political sphere, outside of which, the individual is at liberty to act as he or she chooses. Ultimately, negative liberty and the procedures of liberal democracy are compatible, and mutually reassuring.

Maximizing and securing that area within which the individual can pursue a good life in a unique and independent way is best conceived within a system whose process is founded upon political choice, both in choosing the regime, and making sure that the regime fulfills its duties in the proper manner. The consequences of maintaining a political association where the citizenry, remaining equally free in thought and action, can share in or challenge the current regime, presupposes that the state must limit its interference within the realm of opinion, “indeed,” David Spitz notes, “the area of culture itself.”<sup>84</sup> The procedures for maintaining a liberal democratic system, most notably the ability of a minority to mount a challenge against the majority regime, “constitutionally

sanctions and confirms this appreciation of extra-political realities.”<sup>85</sup> Thus, the negative concern of “how far does government interfere with me?” is addressed in a system where the individual is able to participate in, and give consent to the actions of government.

Within liberal democratic societies, the structures and institutions that guarantee popular control expedite at least a minimum area of independent action where the citizenry, remaining equal in their freedom of speech and assembly, can either sit idly under the hand of the current regime—that is, live freely within their current area of independent action—or seek to gain and maintain political power—expanding their area of action and choice. These activities, for them to be effective, must necessarily remain outside the purview of the governing authority. The selection of representatives held at more or less regular intervals, if they are to be viable, uncoerced choices, must proceed within an electoral process that allows free and independent discussion, thought and action. Acting as the final arbiter of the decision-making process, a process which inevitably effects the parameters within which the independent person can pursue a plurality of ends in unique ways, the citizenry must retain the authority to both define, and to freely operate within that minimum area. While Berlin argues that there is “no necessary connection between individual liberty and democratic rule,” there is a very close link between the maintenance of liberty, negatively, and open, popular control over the decision-making process. It can be inferred that popular control over the decision-making process, in the context of liberal freedoms, provides a more consistent and reliable area of independent action, free from the jurisdiction of the political sphere.

Although Berlin soundly argues that a liberal-minded despot may indeed leave subjects a wide area of private life, under such a beneficent despot, the citizens would



ultimately retain no guarantees, constitutional or otherwise, that their personal freedom cannot, or will not be invaded without their consent. Further, the citizens do not retain the authority to keep the regime accountable to its actions. Even when straying from the task of fostering a healthy citizenry and society, the beneficent despot remains politically invincible. Thus, negative liberty, while not intimately concerned with sources of control, is firmly invested in the maintenance and protection of those areas where individuals exercise independent action outside the purview of the political sphere. This investment is most likely realized in the structural guarantees of popular control, maintaining the institutional separation between the political and private realms.

Negative freedom, prioritizing choice, finds a secure home within the observable democratic structures, and liberal ideals, that secure a durable area of private, free and independent action for the individual. By making the distinction between the jurisdiction of the political realm and the area of community “plain and emphatic” (e.g. through the rule of law), liberal democracy comforts libertarian concerns of how much the individual is governed. The structural procedures of democracy ensure, constitutionally or otherwise, the limits of government, and the limits of majority or minority control (e.g. through checks and balances). In respect to these limits, the individual is thus capable of shaping their affairs accordingly. In short, negative libertarians, like Berlin, who are firmly invested in the availability of choice rather than the substantive outcome of such choices, find comfort in liberal democratic guarantees that ensure open societies where the individual remains secure within a minimum area of independent action, safe from both majority and minority tyranny.

Berlin's interpretation of negative liberty further presupposes, like the liberal ideal, that the rational individual has something to contribute in a unique way. Presuming that the individual is best equipped to choose for him or herself among a plurality of ends, Berlin insists that the democratic allocation of multiple choices best provides the individual with the necessary opportunity to develop that uniqueness. The individual is also better provided the opportunity to change his or her mind, something that "rational" authoritarian systems abhor. Under these terms, negative liberty naturally aligns with the political equality and the democratic freedoms that ensure open and viable choices in both the political and private realms of democratic society.

The alignment of negative liberty and democracy clearly reveals a common share in liberal ideals. Does negative liberty find a similar alignment with republican democracy? It is evident that negative liberty's connection with the republican ideal of self-government is, like its relationship with positive liberty, contentious. As previously noted, the collectivist ideal is clearly concerned with the outcomes of the political process, and thus, it is incapable of remaining wholly neutral to the thoughts and actions of its citizens. This neutrality, however, is crucial for any conception of negative liberty. Nevertheless, contemporary republican democracy, it must be recalled, is subject to some of the same empirical processes of liberal democracy—open discussion and election. Further, as Sandel asserts, the republican ideal constitutes a way of conducting political discussion and argument, not transcending it. Thus, to the extent that republican democracy allows the individual to think and act outside the purview of the collectivist state, it is not wholly in contention with negative liberty. In fact, a degree of negative liberty is required in combating the collapse of the individual into the community.

Political associations based upon the aggregate assumptions of the positive liberty position necessarily find both liberal and republican democracy, normatively and empirically, a hindrance to implementing the “higher” will of the social whole. David Spitz, in his Patterns of Anti-Democratic Thought, demarcates the boundary between democratic and anti-democratic thought under two main headings. First, where democracy is viewed as an impossibility, for power will always remain in the hands of a few; and second, where democracy is viewed as undesirable, for the mass or majority is inferior and incompetent to rule.<sup>86</sup> The former presumes the iron law of oligarchy, the latter presumes the necessity of a “moral” elite, or an authoritarian regime. The four assumptions that underpin Berlin’s analysis of positive liberty, reflected in the view that the one true purpose of the individual is rational self-direction as promulgated by the enlightened few, presupposes the undesirability of maintaining popular control. Government, if it is to be made rational, and direct its citizens toward the fulfillment of those rational principles, must be composed of a competent, and rational regime. In short, it is wholly undesirable for the mass of society, neither rational nor competent, to participate in the process by which the regime is chosen, or promulgates laws. This position undermines, in its totality, both the liberal and republican values that democracy embraces.

Theories that originate from this anti-democratic school of thought are many and varied. However, as Spitz notes, “underlying all these analyses is the common acceptance . . . [of] the alleged incompetence of democracy and of the average man.”<sup>87</sup> In the view of these theorists, human beings are by nature irrational, imperfect, even inferior. Thus, when conflicts arise, the resolution must be imposed by the theoretical

right of the rational regime. Opposition opinion, Spitz writes, “is inconceivable to the rulers.”<sup>88</sup> Of course, where human rationality is capable of solving all problems—political or social or otherwise—the particulars of life become absolutely and objectively true, constituting a “needless plot.”<sup>89</sup> The belief that the “true” desires, wishes and needs of human beings can be settled, in their totality, by rationally conceiving the individual’s ultimate purpose—“this higher purpose being, as with Calvin, the will of God, or, as with Hegel, the fulfillment of the Ideal”—all programs, policies or laws can be arrived at through reason, rather than the political processes of democracy.<sup>90</sup> Thus, a government that presumes the competence of this imperfect and irrational individual is, “of necessity an irrational and incompetent government.”<sup>91</sup>

It is argued that any disunity, or opposition to the absolute collectivist purpose reveals a clash between rational and irrational individuals, affecting the stability of the state. This division, reflecting disorder or weakness, Spitz continues, “renders impossible the maintenance of coherence, continuity, and indeed authority itself.”<sup>92</sup> If that coherence and continuity are to be preserved, it is argued, it is necessary to maintain a strong and authoritative government, characterized, not by an indifference or independence from dissident opinion, but by a “firm central will.” “[A] will,” Spitz concludes, “that is at once constant and assured, a will that imposes a single organization, a single discipline, a single creed, a will that brooks no deviation and no challenge.”<sup>93</sup> This will treats as self-evident what democracy leaves open for discussion, debate and it may be amendment. “It thus encloses,” Henry Kariel argues, “the indefinable, unpredictable needs and aspirations of individuals, defining them, and thereby putting [the individual] into a closed order.”<sup>94</sup> Such a closed, procedural order, embracing every

aspect of human individuality within the social whole, undermines any notions of those values that democracy embraces—either individual liberty or self-government.

Clearly, Berlin's interpretation of the distinction between negative and positive liberty is reflected in the struggle for democratic societies generally. Thus, while the ideals within republican democracy—self-government through deliberative communal association—reveal a close link with positive liberty, Berlin assumes that any political association built on a conception of positive freedom, even in its basic sense, is so liable to be transformed into a perverted, anti-democratic form, that it ought to be abandoned. In its place, Berlin embraces value-pluralism, with the amount of negative liberty it entails, endemic of liberal democracy. In the following chapter, Berlin's assumption that positive liberty inevitably mutates into such debased anti-democratic forms will be challenged. At the heart of this challenge lies the belief that positive liberty can and should be saved from the reproach that Berlin submits to it, and that once reconsidered, positive liberty offers a significant contribution within the values of democratic thought—both liberal and republican.

## CHAPTER FOUR

### A RECONSIDERATION OF POSITIVE LIBERTY

It is the central conclusion of Berlin's "Two Concepts of Liberty," that positive liberty should be abandoned on grounds of its inevitable transformation into a monistic doctrine of authority and oppression. "From his text," L.J. MacFarlane writes, "the reader would gather that 'positive' freedom inevitably entails the assertion of a duality of wills and of an outmoded form of rationalism, which sees freedom as conformity to a master-plan formulated to cover every aspect of social life."<sup>1</sup> If these arguments against positive liberty are sustained, the resulting political consequences preclude any attempt to construct a democratic theory—liberal or republican—that is compatible with even the most basic positive ideals—conscious, or rational self-government. This general incompatibility between positive liberty, as conceived by Berlin, and democracy was clearly demonstrated in the previous chapter. It must be recalled, however, that democracy, most notably in the republican tradition, but in the liberal tradition as well, embrace values that seek specific outcomes or conditions of the democratic process. Education, security, belonging and morality are precursors to republican self-government, as well as to progressive liberalism which seeks the full development of the *human* being. Clearly, these values are invested in those capacities, powers or opportunities provided by the basic ideals of positive freedom.

Consideration of the close link between the removal of restraints to the democratic process, maximizing the procedural freedoms that classic liberal democracy guarantees, and the conditions necessary for effective self-government endemic to *progressive* liberal and republican democracy, suggest that positive freedom, like its

negative counterpart, is embedded within democratic thought. This connection, however, is undermined by Berlin's conclusion that positive liberty is so prone to be transformed into its perverted form that even its basic ideal—conscious self-government—finds democracy wholly undesirable. It must be asked, therefore, does the positive ideal inevitably reveal a duality of wills—rational v. irrational—that some are more likely to discern, and thus justify enforcing that “rational” freedom upon those not fully rational?

This chapter will examine this question in a reconsideration of Berlin's interpretation of positive liberty as *prima facie* anti-democratic. It will be argued, first, following C.B. Macpherson's critique “Berlin's Division of Liberty,” that Berlin has fused three different things into his conception of positive liberty, and that it is only one of these senses that proves incompatible with democratic thought. Specifically, it will be argued that while there is a clear and consistent incompatibility between democracy and one of Berlin's senses of positive liberty—the perverted form that forces “rational” freedom on those who are not fully rational—there is no clear incompatibility between democracy and his basic senses of positive liberty—the desire to be consciously self-governed, and the desire, implicated by “self-government,” to effectively participate in the sovereign authorities that determine what the individual is free to do or be. It will be argued, second, that a *progressive* liberal democratic society is contingent upon (although not at the unlimited expense of negative liberty) recognizing the need for basic positive liberty. Specifically, it will be argued that the social consequences of abandoning positive liberty prove too hostile to maintaining healthy, liberal democratic societies. In the following chapter, it will be argued that republican democracy similarly relies upon recognizing the value of positive liberty.

## **An Analytical Reconsideration of Berlin's Interpretation of Positive Liberty**

Central to Berlin's lecture is his presentation of how positive liberty leads to severe curtailments of individual liberty, and societies that are anti-democratic. One would gather that the authoritarian political consequences that follow from positive liberty are due to some "immanent" threat rooted in its basic ideals. Indeed, Berlin's lecture echo the frightening realities that can and have been justified in the name of positive liberty. The history of Western political thought and action is filled with examples suggesting that this ideal has been used by philosophers, movements and governments to promote social and political restraints that grossly inhibit "present freedom" in the name of some ultimate ideal. While Berlin acknowledges that ill-favored conditions have similarly arisen under unbridled negative freedom, he argues that the positive notion of liberty has historically been used more often than not to oppress and enslave; "Hence," he writes, "the greater need . . . to expose the aberrations of positive liberty than those of its negative brother."<sup>2</sup> Does this conclusion justify, in the words of C.B. Macpherson, Berlin's insistence that positive freedom is "so liable to be transformed into its debased form that the whole concept of positive liberty had better be abandoned[?]"<sup>3</sup>

It will presently be argued that the metaphysical "sleight of hand" that transforms basic notions of positive liberty into its debased, anti-democratic form is not the logical or inevitable result of the "independent momentum" which positive liberty acquired. Rather, the imposition of "rational" freedom arises when Berlin's entwined senses of basic positive liberty—the desire for conscious self-government, and the subsequent desire to participate in the sovereign authority—are fused with rationalist logic,



suggesting that conscious or rational self-government, in distinction to unconscious or irrational self-government, presupposes a single, universal and harmonious solution to the ends of humanity. It will not be questioned that when such a merger does take place that perverse positive liberty is the inevitable conclusion, undermining democracy in its totality, and putting individual liberty at grave risk. However, it must be contended that this merger is not due to something innate in the basic ideals of positive liberty.

To contend that perverted positive liberty is not the logical result of basic positive liberty as such, it must be noticed that Berlin has fused two very different things in his interpretation of positive freedom. Initially, Berlin introduces this concept as the desire to be self-governed. This initial description of positive liberty is open-ended, and does not draw a clear distinction to, nor seem incompatible with, negative liberty or democracy. It may be deduced, however, that this devotion, coming in response to the question, "By whom am I ruled," of necessity, presupposes active and effective participation in the sovereign authorities that shape the individual's life, whether it be the authority of the state (where participation may include voting, lobbying, campaigning etc.), the authority implicit in the economic or labor system (where participation may include labor unions, professional organizations, economic policy groups etc), or the authority implicit in the social or private realms (where participation may include neighborhood associations, religious organizations, voluntary associations etc.). It is clear that to be self-governed requires effective participation in these areas that have significant impact on the individual's life. It is this desire for effective self-government through meaningful participation in the sovereign authorities, at any level, that positive freedom is plainly distinct from the negative goal of the removal of restraints; yet, it is

not clear that it is incompatible with those values of democracy, both liberal and republican. In fact, self-government constitutes a founding tenet of republican democracy, and as previously noted, may be a value or end that a liberal-minded individual may seek to pursue. Upon a more detailed exposition, however, Berlin adds a second, interrelated tenet. And, Macpherson notes, in setting up the distinction between negative and positive liberty (and thus, between positive liberty and democracy), Berlin merges these approaches into a single notion of positive freedom.

As his lecture develops, it becomes clear that Berlin implicates another, quite different tenet with basic positive liberty: the desire “to be moved by reasons, by conscious purposes, which are my own, not by causes which affect me, as it were, from outside.”<sup>4</sup> This second sense of positive liberty (exposed upon in chapter one) is clearly the basic one: the liberty to act *consciously* or *rationally*, as a fully *human* being.<sup>5</sup> As noted in the descriptive analysis of positive liberty, this sense of self-government requires more than simple participation in the social or political realms, or overcoming the deliberate invasions of one individual upon another. It further requires recognizing and removing those impediments, including those irrational impulses and temporal desires, that dominate the individual who is not fully rational. To achieve this sense of self-government the individual requires a positive capacity or power to formulate those “true” desires, values and goals that make self-government meaningful. It is readily seen that this sense of positive liberty is somewhat removed from the simple desire to participate in the sovereign authorities; Berlin even acknowledges that they are not identical. However, he merges the two into a single concept of liberty: “The desire to be governed by my [conscious or rational] self, or at any rate to participate in the process by which my life

is to be controlled.”<sup>6</sup> Stated another way, positive liberty is the freedom to act in a clear, intelligible and consciously self-directed way through effective and meaningful participation at all levels of sovereign authority.

While there is no clear incompatibility between one of Berlin’s senses of positive liberty—effective participation in the sovereign authority—and democracy as such, it cannot justifiably be carried over and made into a general compatibility between positive freedom and democracy. Indeed, self-government is not the same thing as rational self-government, nor does Berlin rest his entire descriptive analysis of basic positive liberty on self-government. Of course, these two senses of positive liberty are closely linked, for “the man who cannot participate in the making of political decisions,” Macpherson writes, “is governed by rules made entirely by others, i.e. is directed entirely from outside himself,” which is inconsistent with the desire to be moved by conscious, or rational purposes. However, these basic senses, like the contentious values within and between liberty and democracy themselves, are prone to conflict.

The conflict between positive liberty as participation in the sovereign authority and positive liberty as rational self-government (reflecting the conflict between democracy and positive liberty generally) arise when they are subjected to rationalist logic. This logic suggests that governing the self by conscious or rational purposes reveals or presupposes a single universal pattern into which all rational beings fit, and if social and political conflict is to be managed, irrational individuals must be forced into that pattern. According to Berlin, the assumption that the individual “have one true purpose, and one only, that of rational self-direction” inevitably leads to this second assumption, “that the ends of all rational beings must of necessity fit into a single

universal, harmonious pattern, which some men may be able to discern more clearly than others.”<sup>7</sup> Of course, any political association built upon these two assumptions is likely to end in authoritarianism, as well as gross denials of individual liberty—that was the fate of Stalin. It must be disputed, however, that the second assumption is inherent in the first, or in any basic concept of positive liberty as such.

Berlin’s lecture suggests that the anti-democratic nature of positive liberty is contingent upon the assumption that positive liberty prescribes one, *and only one* form of life. Macpherson notes that there is perhaps no logical fault in attributing to the doctrine of positive liberty the assumption that rational self-government is “the one and only true purpose of man.”<sup>8</sup> In fact, this assumption becomes essential to any basic definition of positive liberty as rational self-direction. But, Macpherson writes, “it can be dangerously misleading, for already it suggests a monism which in fact is not there.”<sup>9</sup> Indeed, to be moved by conscious purposes is not the same as, nor does it logically presuppose in any way, a single, universal way of life that all “conscious” or “rational” individuals must, of necessity, fit. Rational self-direction, interpreted by Berlin as the desire to be “moved by reasons, by conscious purposes, which are my own,” seemingly includes, in the words of Macpherson, “whatever purposes a man may consciously form.”<sup>10</sup> While it must not be forgotten that rational self-government may require significant attention to the substance of those purposes, and the subsequent pursuits they inspire, it does not inevitably require, as Berlin writes, “an authoritarian state obedient to the directives of an *elite* of Platonic guardians.”<sup>11</sup>

Recalling Berlin’s four assumptions about the nature of positive liberty reveals the rationalist transformation of basic positive liberty into modern totalitarianism or

authoritarianism. Seemingly, Berlin asserts that in all cases the rationalist assumption that there is a “single true solution” accompanies any notion of rational self-government. Here, Berlin brings into question the entire Western tradition of ethics and politics from Socrates forward. Indeed, a central tenet of Western political philosophy is, according to John Gray, “the project of giving human institutions a claim on reason that has universal authority.” Historically, finding its most expressive political voice during the Enlightenment, this project holds the universal assumption that the parochial diversity of the world, and the conflict that accompanies it is merely a pre-condition to a more permanent universal civilization in which political authority would be founded upon the rational choices of its subjects rather than on relative traditions or local prescription.<sup>12</sup> It must be recognized, however, that this universalist assumption was not the sole property of Marxist positive liberty, but that it similarly accompanied the negative liberty embraced by Mill. Thus, when Berlin rejects positive liberty due to its apparent universal claim on reason, he himself is promoting the kind of static monism against which his entire argument is directed\*.

It is a central theoretical conclusion of this thesis that it is not necessary, nor contingent for the positive libertarian to identify or legislate a monistic way of life in which all rational individuals comfortably and agreeably fit. If such a universal way of life was the inevitable result of positive liberty, as Berlin apparently argues, “rational” self-government could no longer mean the pursuit of consciously acquired purposes. Rather, it would simply mean conformity to a “pre-ordained cosmic order.”<sup>13</sup> This sort of perverse positive liberty undermines, in its totality, the essential, prerequisite sense of

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\* While Berlin claims the he does not offer a “blank endorsement” of negative liberty, he does seem to offer

positive liberty associated with the desire to effectively participate in the sovereign authority, and thus, precludes any consistent theoretical links between positive freedom and democracy.

It is readily seen that a single universal, harmonious pattern into which all rational beings must fit is not a necessary, nor logical result of embracing the positive ideal. This reveals a clear distinction between perverse positive liberty, embracing such a monistic pattern, and basic positive liberty, seeking to provide that positive power or capacity by which the individual may achieve conscious, democratic self-government. This reconsideration of positive liberty suggests that if individuals were, in a clear and intelligible and conscious manner, effective participants in the sovereign authority, “there would emerge,” Macpherson writes, “not a pattern but a proliferation of many ways and styles of life which could not be prescribed.”<sup>14</sup> The emergence of such a *progressive* democratic society—liberal or republican—in which concern is placed on the growth and development of human potential, is the fundamental essence of positive liberty; yet, it must be restated once more, “it is not the same as the postulate of a preordained harmonious pattern.”<sup>15</sup> Berlin, however, inspired by a strong belief in value-pluralism, may maintain that even under such reconsidered positive liberty, the emphasis on developing human potential may take too narrow of an approach, undermining that essential characteristic that makes human beings unique—the ability to “invent for itself through the exercise of the power of choice a diversity of natures.”<sup>16</sup>

“[T]he human condition,” Berlin writes, “is such that men cannot always avoid choices . . . ; they cannot avoid choice for one central reason, namely that ends collide;

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a blank rejection of positive liberty.

one cannot have everything.”<sup>17</sup> Would a program of progressive, reconsidered democratic positive liberty, with the goal of achieving conscious, effective participation in the sovereign authority, remain prone to the perverted belief in a single universal way of life, undermining this conception of human nature? Berlin, whose central conclusion is that positive liberty had better be abandoned, does not explicitly address such notions of positive liberty in “Two Concepts of Liberty.” Addressing this possibility here, however, strengthens the case for reconsidering positive freedom’s relationship with democratic political association.

It is Berlin’s assumption that “a permanent characteristic of the human predicament” is the inherent need to choose and may-be even “sacrifice some ultimate values to others.”<sup>18</sup> It is from this belief of human nature that Berlin becomes terrified of the debased, authoritarian political consequences that accompany rational self-government in the hands of, for example, an extreme Kantian rationalist. Would Berlin remain similarly frightened of a reconsidered positive ideal in the hands of a liberal-minded or republican democrat, seeking the promotion of clear, intelligible and most importantly effective self-government, both politically and socially, publicly and privately, with the explicit goal that such political relationships would lead to progressively more democracy? Two arguments can be made to suggest that Berlin might not find such a proposition wholly undesirable. The first is an explicit admission by Berlin that to deny the legitimacy of the positive ideal is absurd. The second is an implicit argument found in the theoretical foundations of his philosophical and political thought.

Berlin's explicit admission of the legitimacy, or at any rate the possibility that positive liberty is not wholly undesirable, is briefly mentioned in "Two Concepts of Liberty." Berlin's account of positive liberty is initially approached in a purely descriptive manner. It is not long before Berlin begins an evaluative analysis, the central theme of which is the union of positive liberty with its debased, anti-democratic form. By way of introduction, however, Berlin writes that positive liberty was, or is, "initially perhaps quite harmless."<sup>19</sup> Here, Berlin suggests that at one time, or merely somewhere within the positive conception of liberty, it was, or is a viable doctrine that is not, in all cases, prone to the oppression he later identifies it with. If this is so, Berlin must be, to some degree, open to the possibility that positive freedom be reconsidered, and it may be, theoretically restored. Berlin further contemplates this possibility in a future lecture.

In his Presidential Address to the Aristotelian Society (1964), Berlin makes a more prodigious statement concerning the value, and perhaps the possibilities of positive liberty. "It would be absurd," Berlin states, "to deny the validity of this sense of the concept of freedom, or of its intimate logical dependence on rationality and knowledge."<sup>20</sup> Here, Berlin acknowledges the inherent legitimacy of positive liberty. What is more revealing, however, is his failure to sustain those arguments made in "Two Concepts of Liberty" that positive freedom is prone to an inevitable merger with its debased form. Berlin argues, to the contrary, that positive liberty, "like all freedom . . . consists of, or depends on, the removal of obstacles, in this case of psychological impediments to the full use of human powers to whatever ends men choose."<sup>21</sup> This eloquent statement of the positive ideal reveals Berlin's full admission that impediments above and beyond simple social and political restraint constitute a legitimate obstacle to



individual freedom, a concession he is clearly shy to admit, or at least agree with in his previous lecture. Further, Berlin makes it clear that positive liberty may foster the development of human potential, and that this developed potential may be used “to whatever ends men choose.” This constitutes no less than a lucid affirmation that positive liberty, rather than promoting a single way of life, may usher in the pursuit of a multiplicity of conscious or rational purposes.

A second argument that suggests Berlin may not find positive liberty wholly undesirable is based upon an assumption that can be implicitly deduced from a foundational tenet of his political thought. Berlin, throughout his political writings, vehemently refutes human determinism. “[I]t seems patently inconsistent to assert,” he writes, “that all events are wholly determined to be what they are by other events.”<sup>22</sup> According to Berlin, John Gray insists, the human custom of placing blame or congratulations, or emitting such emotions as bitterness and gratitude, “presuppose that the agents who are their objects could have done otherwise than they did when they evoked our emotions.”<sup>23</sup> In short, determinism undermines an extensive range of practices and sentiments that are central to human understanding, and human morality. Arguing that there is something immanent in positive liberty, merging it, in all cases, with its debased form, creates an certain tension with Berlin’s rejection of determinism. And, it may be argued, this tension brings into question Berlin’s reasoned and consistent logic on positive freedom.

If the perverted positive ideal is merely the pre-determined result of embracing its basic tenets, it raises serious questions regarding Berlin’s belief that the essential characteristic of human beings is their innate power to exercise a diversity of natures,

which are “irreducibly distinct,” and sometimes incommensurable and rationally incomparable.<sup>24</sup> This, “the most distinctive mark of man,” brings to light Berlin’s insistence that “basic freedom,” in either of its senses, is contingent upon the human capacity for choice. By implying in “Two Concepts of Liberty” that perverse positive liberty, limiting individuals to a single pursuit, is the inevitable result of embracing rational self-government, Berlin could not logically consider positive freedom to be a viable concept of liberty. It could be argued, therefore, that what Berlin presents in his seminal lecture is not a description of “negative” and “positive” liberty as such, “but,” Macfarlane argues, “two particular conceptions of these concepts.”<sup>25</sup> In this case, Berlin could not consider the broad value of positive liberty, in all cases, is inevitably undesirable.

Still, Berlin makes it clear throughout his work that the historical track record for positive liberty merging with its authoritarian form to be exceptionally high. In its liberal, but more so in its collectivist capacity, Berlin may continue to disregard positive liberty, even in its reconsidered, or most basic, or broadest form. In either case—liberal or republican—he argues that positive liberty should be abandoned for the “truer and more humane ideal” of negative liberty.<sup>26</sup> Thus, to demonstrate the desirable possibilities of positive liberty for democracy, Berlin’s negative view must be challenged. This challenge will focus, first, on the consequences of embracing purely negative political associations. It will further be argued that the progressive liberalism of T.H. Green, coming in response to pure negative social relationships, offers a clear and consistent place for positive liberty within liberal democracy.

## **Challenging Berlin: T.H. Green and the “Great Transformation”**

In 1830, the opening of the first locomotive-operated public railway coincided with the inauguration of the “Reform Parliament,” ushering in England’s “Great Transformation” to an industrialized, free-market society.<sup>27</sup> This great change, characterized by John Gray as a “far-reaching experiment in social engineering,” had a remarkable effect on England’s class structure, especially those social institutions that had sustained “the traditional rhythms of life and traditional patterns of human relationships [in England]. . . for centuries.”<sup>28</sup> The demands of England’s growing middle classes, who were increasingly taking control of the economy, inspired the first Reform Bill (1832) extending the franchise to all males owning property worth 10 £ or more in annual rent. This extension of the franchise was the first in a series of reforms that worked to break up of “the monopoly of power” that conservative landowners had enjoyed for centuries. This, coupled with fast paced industrialization, and the transformation of common land into private property marked “the beginning of a new age.”<sup>29</sup> Indeed, by the beginning of the second half of the nineteenth century, England was poised to become a modern industrialized and liberal democratic state.

The rise of the middle classes, the initial extension of the franchise, and the destruction of traditional social and economic bonds were heralded by many Victorians to be a positive step that would ultimately benefit everyone. Thus, when Parliament passed the Poor Law Act of 1834, setting the level of subsistence lower than the lowest wage set by the market, and repealed the Corn laws in 1846, establishing agricultural free trade, there was a shared sense of satisfaction that the individual, relying purely on market forces, would gain an increased share in controlling the ends of his or her life.<sup>30</sup> Rooted

in classic liberal philosophy, it was generally agreed that the increased prohibition of legal and social restraints, replacing the conservative landed class who had dominated the English countryside for generations, and the extension of the franchise, albeit to a small proportion of the population—property owning males—would allow the individual more flexibility to act in his own interests.

Central to the modern liberal tradition is a claim that persons are essentially rational beings, and left to their own devices, make good choices. Thomas Hobbes, modeling political allegiance on such individual rational choice, established the basic moral theory by which all subsequent liberalism, whether rights-based, utilitarian or contractarian, would be conceived.<sup>31</sup> In this tradition of political thought, beginning in earnest with John Locke, toleration and respect for individual rights and liberty became central. The reform movement of nineteenth century England was steeped in this liberal philosophy. Generally, it was believed that government should act as a “night watchman,” limiting the direct interference of persons upon others, thus providing a wide arena of individual choice, which, it was further argued, would maximize the individual’s ability to pursue their conception of the good life in an equitable manner. Economically, this liberal view, closely linked to Adam Smith and, politically, the utilitarian thought of Jeremy Bentham, suggested that persons were essentially a bundle of desires or appetites that demanded satisfaction, and that the “good” society was one that maximized individual choice in satisfying those “consumer” desires. This view was closely tied to an unregulated free-market.

The liberation of economic and political forces, and the subsequent deterioration of traditional social relationships, promising an increase in individual self-direction

constitutes the first, and central claim within liberal thought. During the “Great Transformation” many were inspired to “relish the spectacle as wholly delightful.” There were others, however, who “suffered from an anxious sense of something lost, a sense . . . of being displaced persons in a world made alien by technological changes that had been exploited too quickly for the adaptive powers of the human psyche.”<sup>32</sup> Matthew Arnold poignantly reveals this sentiment:

For what wears out the life of mortal men?  
‘Tis that from change to change their being rolls;  
‘Tis that repeated shocks, again, again,  
Exhaust the energy of the strongest souls.<sup>33</sup>

The breaking up of traditional social, economic and political traditions were, for many, liberating, but the costs of experiencing such rapid change without a focused understanding of their real consequences on the development of human happiness, security and human potential, were equally frightening. This anxiousness reveals a second claim within liberal thought, closely linked with the humanist contention that society ought to maximize human potential for using and developing essential human characteristics—capacity for reasoned thought and action, for emotional activities of friendship or love, and aesthetic creation or contemplation. This belief, traced back to an older idea found in the Western humanist tradition, viewed the individual, not as a consumer, but as an active being—“a doer, a creator, an enjoyer of human attributes.” The individual, the humanist maintained, was a bundle of conscious energies seeking exertion. In the nineteenth century, the new, unregulated economy, “whose ethos was competitive maximization of utilities,” was increasingly coming into conflict with the humanist-liberal tradition.<sup>34</sup>

It was the loss of security, happiness, and the potential for human development that characterized many experiences during the “Great Transformation.” The social and political reforms that sought liberation through the stringent removal of “negative” obstacles to human thought and action was consequently destructive of those social structures that had previously provided the individual the “positive” capacity to develop a sense of belonging and to exert their essential human energy. While some liberals like T.H. Green shared in the satisfaction that came with the liberating reforms “in the name of individual freedom against class privilege,” he was clearly aware that the unlimited freedoms that accompanied it was, perhaps, dreadful to the *human* being.<sup>35</sup>

Using the “Great Transformation” as an historical example, and T.H. Green’s “Lecture on Liberal Legislation and Freedom of Contract,” it will presently be contended that, within the liberal tradition, political associations that merely provide the removal of obstacles to possible choices can have a degrading effect on those social institutions that provide the individual with the resources to develop human security, human potential, and to truly do what she will with her own in controlling the ends of life. Specifically, it will be argued that while the liberating forces of nineteenth century England provided the necessary reforms to foster industrial development, and to some extent the satisfaction of “consumer” desire through individual liberty, the consequences of these reforms were detrimental to the security and happiness of the individual. It will further be argued, that when the increasingly “liberal” government inspired the further expansion of the franchise, and political participation became widespread and meaningful, the unfettered negative freedom endemic of this period, economically and socially, could not be supported politically. As the excesses of this negative liberty began to cause undue

hardship, it was replaced by positive social and economic policies revitalizing the strain of liberal thought focused on the development of human security and potential.

It must be noted that Berlin's embrace of negative liberty does not translate into an explicit approval of the liberal free market practices that accompanied nineteenth century England. However, it is clear that the two have much in common. At bottom, Berlin's concept of negative liberty is, in the words of Macpherson, "a mechanical, inertial concept of freedom which is fully appropriate only to a complete market society."<sup>36</sup> While Berlin is adamant in his belief that *laissez-faire* has undermined "conditions for both positive, and at least a minimum degree of negative liberty," and that the desire for state intervention to secure the conditions of negative liberty, "is overwhelmingly strong," his case is neither convincing, nor consistent.<sup>37</sup> For, Berlin remains steadfast in the belief that negative liberty is clearly and significantly distinct from the conditions of liberty. Thus, any arguments in favor of state or social intervention in the private lives of individuals, beyond that required to protect their areas of liberty, is inconsistent with his belief in negative freedom. The reader is left, therefore, with a narrow concept of liberty that certainly aligns with those forces that were shaping England in the nineteenth century.

During this period, the most liberal reforms were carried out by a British state that was largely pre-democratic. While the first Reform Act in 1832 expanded the franchise, it excluded a great majority—women, and those in the lower agrarian, working classes. The major economic reforms, embedded in the belief that the free-market would equitably maximize the satisfaction of individual desire, were implemented by those who were in the upper echelon of society—those who controlled some means of production,

were part of the landed class, or were part of the fast rising business and merchant classes. The growth of the new type of economy in which the prices for goods and services, including labor, changed hands irrespective of the societal consequences, was inspired, therefore, by a minority of the population, in a pre-democratic fashion. Thus, the English free-market was, according to John Gray, “an artifact of power and statecraft.”<sup>38</sup>

State power was initially used to transform traditionally common held land into private property, a prerequisite to establishing a free market economy. The Enclosure Acts, underpinning the growing agrarian market economy, granted the balance of ownership to the large, landed classes, at the expense of the cottagers and yeoman farmers. Increasingly, the peasant classes were losing control of the forces that were shaping their lives. Then, Gray notes, with the establishment of agricultural free trade in 1846, “the proposition that a market economy must always be subject to ultimate political oversight and control with the aim of safeguarding social cohesion . . . was reversed.”<sup>39</sup> As this “radical” economic theory of liberal free trade was increasingly supported by political classes of all standing, the lower classes, yet without political standing, were stripped of traditional ways of life that provided happiness, security and potential through cohesive, socially minded communities. Forced into exclusive personal care, many were forced to find work in the growing industrial centers. The consequences of such rapid and widespread change was generally unforeseen.

As industrialization picked up steam, the combined result of technological advance and the rapidly transforming political and economic system, the life of the majority working classes began to deteriorate. The newly established *laissez-faire*



regime placed sole responsibility for human welfare squarely upon the individual, rather than on traditional, shared responsibility with the community. With the subsistence level below the lowest wage set by the market, recipients were disgraced by the harsh, demeaning conditions that such relief brought. “The view of middle-class liberal economists,” Erich Hobsbawm writes, “was that men should take such jobs as the market offered, whatever and at whatever rate it offered.” Those who were unable to secure work, or faced illness, old age, or other debilitating circumstance, Hobsbawm continues, “could not, admittedly, be left to starve, but they ought not to be given more than the absolute minimum . . . and in the most discouraging conditions.”<sup>40</sup> The Poor Law reforms, in short, transferred responsibility for human security away from the community and to the individual, compelling persons to accept work and wage at whatever rate or condition the market set.

Central to these reforms was the removal of any and all impediments to the market’s ability to determine individual wages. “Wages should be left,” Gray notes the classic economist statement of David Ricardo, “to fair and free competition of the market, and should never be controlled by the interference of the legislature.”<sup>41</sup> With these classic *laissez-faire* statements in hand, Parliament repealed all controls on wages. This, combined with the establishment of free trade, and the poor law reforms compelling the poor to take work, were “the three decisive steps in the construction of the free market in mid-nineteenth century Britain.”<sup>42</sup> The consequences were appalling.

Clearly, the “Great Transformation” was a painful change for a majority of the population. In fact, this early period became known as the “Times of Trouble.”<sup>43</sup> With the removal of agricultural protection, the destruction of wage controls, and dubious

welfare provisions, many were left to take work under the brutal labor conditions of industrial mines and factories. The slums of such cities as Manchester were comprised of workers and their families living in horribly unsanitary and intolerably crowded housing. Men, women and children were subject to conditions that, when recalled, seem hyperbole. "Certainly I have never seen," writes statesman Charles Greenville, "so serious a state of things as that which now stares us in the face."<sup>44</sup> This "state of things" is no doubt hard to imagine. Elizabeth Barrett Browning provides a vivid picture of the exploitation that many poor workers faced:

Our knees tremble sorely in the stooping,  
We fall upon our faces, trying to go;  
And, underneath our heavy eyelids drooping,  
The reddest flower would look as pale as snow.  
For, all day, we drag our burden tiring  
Through the coal dark, underground;  
Or, all day, we drive the wheels of iron  
In the factories round and round.<sup>45</sup>

The nineteenth century English project in liberal social, political and economic engineering was clearly taking its toll.

The toil many faced in the last half of the nineteenth century was not limited to the individual desperation of the poor masses. It was further effecting the social institutions that provided persons, especially the mass of poor but the rich as well, necessary security, and the powers of expressing those essential human characteristics. Individuals, as the sole bearer of personal responsibility, were required to work lengthy hours, putting strain on such fundamental institutions as the family. For the poor, it is readily seen that such degraded working conditions, and the sheer number of hours required by all members, would have a tremendously negative effect on healthy families. For the wealthier classes too, however, the materialist individualism that emerged began

to replace the traditional ties that bound families and communities together. “By privileging individual choice over any common good,” Gray writes, “it tend[ed] to make relationships revocable and provisional.”<sup>46</sup> In nineteenth century England, when choice was the only “undisputed value,” and the satisfaction of “consumer” needs and desires were insatiable, there was little difference between making a good monetary investment and becoming engaged to marry, or between expressing the powers of human potential and finding a good price on an expensive commodity\*.

Other social institutions were equally effected. Professional organizations, such as traditional guilds, merchant groups, or more modern organizations such as unions were viewed as a hindrance to the individualism and mobility required by unfettered competition. Owners were “innocent of blame” for the beleaguered conditions experienced in the industrial sector, for they were profiting from an economic theory which assumed that unregulated choice, including managerial decisions regarding labor practices, would ultimately benefit everyone. Thus, they failed to take direct or indirect action. Local authorities lost any significant power as the *laissez-faire* regime precluded them from limiting or regulating market forces, irrespective of the incredible poverty and human misery that was its consequence. Mutual societies of all kinds, limiting the power of the market over the individual, were destroyed. In short, Gray writes, “the free market cannot avoid weakening or destroying such intermediary structures, and such was their fate in Britain.”<sup>47</sup>

It must not be forgotten that the destitution facing a great number of persons in nineteenth century England was not the fate of all. Indeed, the mid-Victorian period

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\* John Gray presents the same logic in *False Dawn* p 37.

(1848-1870) was a time of general prosperity for the middle and upper classes. The wealthy, including the royal family, was “proving its worth in a modern setting.” The monarchy became a model of middle-class life, domestic and devotional to their duties.<sup>48</sup> In 1851, Prince Albert opened the Great Exhibition in Hyde Park, displaying the great technological advances in science and industry. It was increasingly clear that for those who were the beneficiaries of the economic and political reforms, life was proving to be fiscally rewarding. “In the strictly economic terms of rising productivity and national wealth,” John Gray insists, “the mid-Victorian period was one of Boom.” But, Gray continues, “it was a boom whose social costs were politically insupportable.”<sup>49</sup>

Indeed, during this period, any legislation that intruded upon the individual was thought to curtail their liberty, thus little was done to address the needs of the working poor. Their plight had not, nor was it subsiding. Charles Dickens and John Ruskin provided “critical and indignant” attacks on what they considered the “shortcomings of the Victorian social scene,” and “the faults of Victorian industry and commerce.” Their views increasingly shared “an idealistic conviction that the middle-class economic and political system, with its distrust of state interference, was irresponsible and immoral.”<sup>50</sup> These views would inspire those, like T.H. Green, who remained passionate for “improving mankind, in its ultimate object.”<sup>51</sup>

In 1867, finding the social costs of an unregulated economy “so humanly costly and so disruptive of the life of society that it could not be rendered stable,” a second Reform bill was passed, extending the franchise to limited sections of the working class.<sup>52</sup> In the following years, numerous legislative measures were proposed, seeking state intervention in the economy to address the social concerns of the lower classes.

Many of these measures were objected to on classic liberal grounds that they would interfere with unfettered individual choice, and the competitive free market. “If the law thus takes to protecting men,” Green quotes a commonly held argument, “who ought to be able to protect themselves, it tends to weaken their self-reliance, and thus, in unwisely seeking to do them good, it lowers them in the scale of moral beings.”<sup>53</sup> Driven by the “supposed inherent right of every man to do what he will with his own,” many reform bills that sought to regulate unrestricted labor practices, uncontrolled wages, and nothing but the most meager of welfare provisions, were rejected in Parliament. As the expanded franchise took root, however, reforming legislation began not only to be considered, but passed. It is the liberal principles that inspired the “great system of restriction” that Green seeks to examine.

Green notes in his lecture that the prime objective of many of the liberal reform acts prior to 1867 concerned the complete freedom of contract. “[They were] to set men at liberty,” Green writes, “to dispose of what they had made their own that the free-trader worked.”<sup>54</sup> Green, citing a classic negative liberty position, recalls the work of the government agent, official, or legislator during this period: “He only interfered to prevent interference. He would put restraint on no man in doing anything that did not directly check the free dealing of some one in something else.”<sup>55</sup> Such statements were the norm in the largely pre-democratic parliament. Although it is true, Green continues, that factory and labor acts had been passed previous to 1867, they were “imperfectly put in force” for a limited number of industries. “[I]t was only alongside the second reform act in 1867,” Green observes, “that an attempt was made by parliament to apply the same rule to every kind of factory and workshop.” And, only later, Green continues, “in the

first parliament elected partly by household suffrage,” were effective measures for enforcing these acts properly implemented.<sup>56</sup> The “great system of restriction,” however, did not end with factory acts and labor legislation.

Although many acts regulating aspects of the economy had been implemented prior to 1867, albeit in an ineffective manner, the same was untrue of education legislation, health and safety regulations, and sanitary housing legislation. “It was the parliament elected by a more popular suffrage in 1868 that passed,” Green recalls, “the first great education act.”<sup>57</sup> This “patently interventionist” education act was the first to introduce compulsory education.<sup>58</sup> While it delegated such compulsion to the local school boards, it had the broad effect of limiting individual parental rights, as well as, indirectly, labor rights in respect to children. In so far as children were required by local school boards to receive basic education, freedom of contract, in regards to child labor, and to some industries as a whole, were indirectly regulated. “[I] need not point out,” Green writes, “that in effect the prevention of the employment of juvenile labor beyond certain hours, amounts . . . to the prevention of the working of machinery beyond those hours.”<sup>59</sup> Other reforms included the prohibition by law of contracting labor unless certain rules for health and safety were complied with. Similarly, sanitary inspections were implemented, prohibiting persons from living in unsanitary living conditions.

Green makes clear in his lecture that the correlation between the liberal democratization of Parliament in 1867, and the system of reform that followed, was not spurious. Gray reflects this correlation in simple terms:

Both the philosophy and the policies that had created the free market were discarded. The economic insecurities of the free market interacted with the imperatives of party

competition in an emerging democracy. The result was to kill off the political influence of *laissez-faire*.<sup>60</sup>

While this sequence of reform took another half century, it is nevertheless apparent that the social consequences of the liberal free market regime were severe, and that it took a healthy dose of democracy to combat them. “Here, then, is a great system of restriction,” Green writes, “which yet hardly any impartial person wishes to see reversed; which many of us wish to see made more complete.” Indeed, these reforms were desperately needed. “Perhaps, however,” Green continues, “we have never thoroughly considered the principles on which we approve it.”<sup>61</sup> Indeed, previous liberal reform was concerned with the removal of restraint, allowing the individual to choose their own ends. “But of late,” Green contends, “reforming legislation has taken . . . a seemingly different direction.” In many respects, he continues, “it has put restraints on the individual in doing what he will with his own.” It is the liberal principles that underpinned the democratically implemented reforms of the late nineteenth century that Green seeks to explore. In this examination, Green provides a classic statement of the value of positive freedom within the liberal tradition.

Green, like many reform liberals during the nineteenth century, was inspired by the “struggle of free society against close privileged corporations,” the overhaul of “the immense charities of the country, and the placing them under something like adequate public control,” against “the grosser abuses in the administration of the church,” and “the struggle of society against monopolies; in other words the liberation of trade.”<sup>62</sup> While championing these liberal developments of “freedom from restraint or compulsion,” Green was equally aware that freedom ought not to inspire the individual “to do as [he or she] like irrespective of what it is that [he or she] like.” The societal consequences of the

free market system revealed, for Green, the truth that “a freedom that can be enjoyed by one man or one set of men,” too often comes “at the cost of a loss of freedom to others.” Thus, “When we speak of freedom as something to be so highly prized,” Green writes,

we mean a positive power or capacity of doing or enjoying something worth doing or enjoying . . . We mean by it a power which each man exercises through the help or security given him by his fellow-men . . . When we measure the progress of society by its growth in freedom, we measure it by the increasing development and exercise on the whole of those powers of contributing to the social good with which we believe the members of the society to be endowed; . . . the mere removal of compulsion, the mere enabling a man to do as he likes, is in itself no contribution to true freedom . . . the ideal of true freedom is the maximum of power for all members of human society alike to make the best of themselves<sup>63</sup>

While there is perhaps no better statement regarding the positive ideal in the reform liberal tradition, it must be clearly noted that Berlin, and other classic liberals, object to this statement due to Green’s use of the terms “true freedom,” and “the best of themselves.” This language reflects, Berlin soundly argues, “the metaphysical doctrine of the two selves—the individual streams versus the social river in which they should be merged, a dualistic fallacy used too often to support a variety of despotisms.”<sup>64</sup> Indeed, as previously discussed, such a division of selves can, and has led to great infractions of individual liberty and the transcendence of liberal democracy. However, like positive liberty generally, seeking the “maximum of power for all members . . . to make the best of themselves,” does not presuppose, nor logically result in a single, universal way of life that transcends democracy. Rather, it suggests a way of organizing discussion within liberal democracy, not precluding it.

Green’s lecture, rather than promoting a monistic, illiberal way of life, and thus transcending the need for liberal democracy, comes in response to organized, popularly



elected reforms following the democratization of the state. Green observed that increasing numbers of citizens were exercising their political freedoms in regulating labor, the conditions of factories, mines, workshops and housing. These reforms reflected a popularly elected view that “it is the business of the state . . . to maintain the conditions without which a free exercise of the human faculties is impossible.”<sup>65</sup>

Whether the common citizen was aware of it or not, or whether he or she would embrace the degree of positive liberty that Green expounds or not, the majority in late nineteenth century England were implementing market restrictions for the sake of social cohesion, human security and for such conditions that would foster the development of human potential. These goals, clearly imbedded in basic conceptions of positive liberty, and not, it must be noted once again, in response to an enlightened, universal way of life, suggest that the liberal tradition, while ultimately holding individual liberty as its central priority, similarly seeks democratic implementation of positive measures securing the necessary conditions for asserting that liberty. “In the disappearance of the nineteenth century free market,” John Gray observes, “the unplanned workings of democratic political institutions were decisive.”<sup>66</sup> Thus, as the liberal reforms of the later half of the nineteenth century expanded the franchise, it had the effect of revealing the desire for, and the implementation of, positive conditions for experiencing liberty.

Green notes that in the closing decades of the nineteenth century, the working classes, gaining political standing, were no longer willing to be traded as commodities, no longer willing to take work and wage at whatever rate the market set, or continue to live in unhealthy housing. These conditions had degraded social institutions such as the family, and those mutual associations that would foster the aggregation and articulation

of common grievances. Green argues that the liberalism endemic of the previous decades rendered individual activity a product “of compulsion by natural necessity . . . though of restraint by society none at all.” Indeed, the classic liberalism of the *laissez-faire* regime provided the individual an almost unlimited supply of political negative liberty. This classic liberal philosophy presumed that self-interested individuals, working under the neutrality of a free market would, of necessity, raise themselves to a state that would allow for the free development of their human faculties. For some, these liberal reforms had precisely this affect. For others, however, such reform merely provided justification for their boundless interference, forcing them to struggle to secure even their most basic needs.

Green’s brand of “new” or “reform” liberalism is a reply to classical liberals who remain steadfast in the belief that it is negative liberty that provides the means for distraught populations to achieve a better life. This classic strain of liberal thought further contends that it is only the deliberate interference of other human beings, e.g. government officials, that constitutes an impediment to that individual liberty. Thus, the unintended results of classic liberal reform—the degradation of social cohesion, the loss of security, and the loss of human potential—are not considered oppressive impediments to individual liberty. Green’s belief in positive liberty inspires him to argue otherwise. “Left to itself,” Green vehemently disagrees, “or to the operation of casual benevolence, a degraded population perpetuates and increases itself.” Under certain moral and material conditions, the individual “may be trusted not to sell their labor,” Green continues, “or the labor of their children . . . But with large masses of our population, until the laws we have been considering took effect, there was no such standard.”<sup>67</sup> Indeed, the only

criteria which individual liberty and society were measured was unfettered free choice, the consequences of which were detrimental to the liberty of the *human* being.

The public philosophy that emerged at the end of the nineteenth century, while expanding the positive conditions under which freedom could be exercised, generally remained within the liberal tradition. Thus, when the state began to regulate the unfettered free market, implement labor restrictions on women and children, address living and working conditions, slowly expand social welfare programs and institute a system of compulsory education, it remained, generally, neutral to those values and ends its citizens sought to pursue. For, while endorsing specific outcomes clearly challenges the neutrality of liberal legislation, it does not seek to promote specific moral practices. Thus, the individual, provided more social and political resources, is able to use those resources in pursuit of whatever values and ends they desire. In short, while the *laissez-faire* thinking of the mid-Victorian period was gradually watered down by “New Liberal” thinkers like Green, who were “ready to harness the powers of the state to moderate the effects of market forces, to relieve poverty and promote social welfare,” the liberal contention that persons were free and independent selves capable of choosing their conception of the good life was not usurped.<sup>68</sup> The social upheaval that accompanied the triumph of negative liberty was corrected, to a degree, by the democratic implementation of social and economic programs that reflected the positive liberty contention that human security and social cohesion are necessary conditions to achieving liberal freedoms. Thus, those like Green, whose theory Berlin indicts as retaining the seeds of despotism, can, in fact, promote more democracy, as social and political resources are expanded to new and larger proportions of the population.

While it is unclear whether Berlin would concede the positive effects of the “New Liberal” theory of Green, it is clear that Green’s brand of liberal positive freedom had an important impact on social and political association, and remains an important tenet of liberal theory today. Presently, the relationship between classical liberalism and Green’s brand of reform liberalism remains evident across the spectrum of political discourse of England as well as America. While neo-classical liberals may argue that levying taxes on wealthy individuals to finance social welfare policy is a type of coercion that impedes on the individual’s ability to do what they will with their own, the Labor party in England, and the liberal Democrats in America argue that government should provide all citizens a minimum standard of income, housing and health care, on grounds similar to Green, namely, that those who are inordinately concerned with economic and human security are not “truly” free to exercise choice in other areas. Thus, despite their disagreement about the role of government in respect to individual choice, both assume that liberty resides in the ability of persons to make choices about their own values and ends.<sup>69</sup> While Berlin may remain insistent that the concerns of reform liberals over the outcome of choice, rather than the mere proliferation of choice, may lead to coercion, and thus unnecessary restrictions on individual liberty, it has been clearly shown that such concern does not inevitably undermine democratic society.

The positive liberty endemic of contemporary liberal discourse, with its continued allegiance to values that promote persons as independent selves capable of choosing their values and ends, may be termed a weak positive liberty. Although there is a desire to achieve specific conditions, securing the individual’s liberal freedom, there is little concern about how the individual uses their freedom once it is achieved. Thus, the liberal

desire to improve the human being in its ultimate object reflects a desire to improve those *conditions* that foster such improvement, and not a specific value or end considered to be characteristic of being truly *human*. However, there is an anxiety that surpasses the liberal desire for securing those necessary conditions for human improvement. There is a growing fear, Michael Sandel notes, that, individually and collectively, Americans are losing control of the forces that govern their lives. Central to this declining self-government is the incapability of our current liberal public philosophy to address our growing disillusionment with government, and the erosion of our communities. Thus, recovering the qualities of character necessary for self-government requires an embrace of positive liberty that extends beyond that offered in contemporary liberal discourse. What is necessary is democratic association built on a strong, republican positive liberty. In contrast to that offered in reform liberal theory, Sandel argues, this brand of strong positive liberty requires a formative politics that will help cultivate those virtues essential to republican self-government. Such a strong positive liberty, however, cultivating communal values, cannot be wholly neutral toward those values and ends that citizens pursue. Thus, it is such strong positive liberty which Berlin is most afraid, and toward which his most passionate critiques are directed.

## CHAPTER FIVE

### THE SEARCH FOR POSITIVE DEMOCRACY IN CONTEMPORARY TIMES

During the past sixty years, the United States has arisen as the world's reigning superpower, its people having helped secure victory in World War II, experiencing great economic and social prosperity, and achieving victory in the Cold War. Despite these accomplishments, however, there is a recurrent uneasiness about our public life. In September 1992, *Gallup Poll Monthly* published a report stating that 75 percent of Americans felt dissatisfied with the way in which the political process was working in the United States. In February 1994, a second report revealed that 80 percent of Americans believed that they could not trust the government in Washington to do what was right most of the time.<sup>1</sup> Historically, such anxiety and discontent inspires a people to recollect the values and ideals by which they live.<sup>2</sup> At present, however, the hegemony of our liberal public philosophy, inspired by a vision of strong negative freedom, is insufficient in addressing these growing anxieties. Thus, a “*progressively* better future,” where the conditions of character necessary for the renewal of self-government may be at stake in public life, lies beyond the contemporary political debates inspired by this liberal political philosophy.

Today, the American political parties and public figures are incapable, or unwilling to “make sense” of our public unease. And, as our discontent with public life continues unaddressed, the liberal freedoms promised by our current public philosophy—choosing independent values and ends within a neutral framework of rights—may be threatened. For “individually and collectively,” Michael Sandel writes in *Democracy's Discontent* (1996), “we are losing control of the forces that govern our lives.” Further, he

continues, “from family to neighborhood to nation, the moral fabric of community is unraveling around us.”<sup>3</sup> These fears—the loss of self-government and the degradation of community—characterize our contemporary anxiety. Yet, despite the appeal of our liberal public philosophy, Sandel observes, “the liberal vision of freedom lacks the civic resources to sustain . . . the sense of community and civic engagement that liberty requires.”<sup>4</sup>

“[T]o know one’s chains for what they are,” writes Isaiah Berlin, in a rare acknowledgment of Rousseauian insight, “is better than to deck them with flowers.”<sup>5</sup> Today, political debate in the United States is failing to make sense of the chains that prevent us from achieving the liberty that our public life promises. The degradation of communal life, and the increased usurpation of self-government by great, impersonal power relationships, are threatening to destroy our ability to truly choose our own values and ends. Today’s political debate, focused on the management of the welfare state, the extent of individual rights and entitlements, and the proper balance of government regulation, while not unimportant topics, lack the moral and civic resources necessary for combating the twin chains\* that limit our freedom, and restoring a sense of true democratic self-government.<sup>6</sup> As L.J. MacFarlane observes, however, the recognition of one’s chains may never come about if the individual either ignores them, or loves them.<sup>7</sup> Thus, despite its bedecked façade, our reigning public philosophy, unconcerned with the moral or civic virtue necessary for self-government, may limit the horizon of possibility by which we may relieve the sense of loss that troubles our public life.

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\* The loss of self-government, and the erosion of community.

## **“Rife with Discontent”**

Isaiah Berlin’s summary of freedom in the liberal democratic tradition pointedly speaks to our current liberal political theory and the public philosophy it inspires. No liberal democratic society may be regarded as “free,” he writes, unless it is governed by, at bottom, two interrelated principles.<sup>8</sup> First, that no power, but only rights, be regarded as absolute; and, second, that there are “frontiers,” not arbitrarily drawn, within which the individual is inviolable. In this tradition, characterized by a strong belief in negative liberty, politics should not try to inculcate conditions of character, virtue, or morality, for to do so would suppose that politics can do for persons what they cannot do for themselves.<sup>9</sup> Rather than promoting any conception of the good life, therefore, government should provide a neutral framework of rights within which persons may freely choose their own values and ends. This assertion of neutrality, the priority of individual rights over government interference, and the insistence that persons are capable of freely choosing their own values and ends, finds expression in our public philosophy, and in the political debate that it inspires.

The major political parties, debating what they feel to be the underlying causes of our national discontent, broadly reflect the conflict that arises between positive and negative liberty within the liberal idea of freedom. Conservatives, expressing liberalism’s relationship with negative liberty, argue that our present fears stem from an unwieldy federal government too big to be mastered. Reform liberals, in the “humane liberal” tradition of Green, invoke a weak positive liberty, suggesting that our anxiety results from a failure of government to provide the necessary conditions by which the individual may “compete and win” in the twenty-first century.<sup>10</sup> The crux of this political



debate circulates around the broad issue of the government's role with respect to liberal freedom. Should the government seek to provide more negative liberty, by scaling back, devolving its power to local authorities, or should the government seek to assert centralized programs, providing the positive capacity that will "equip Americans" for life in the new century? "The problem, though," Michael Sandel argues, "runs deeper than these diagnoses suggests; it concerns the public philosophy by which we live and the conception of citizenship that informs our political debates."<sup>11</sup>

Under the aegis of our current public philosophy, government is admonished to provide a neutral framework of rights, absent statutes or laws that promote a particular conception of the good life. This philosophy, translated into assumptions about citizenship and freedom, then inspires political debates that invoke neutrality in regards to the proper scope of rights and entitlements, and the governments' role in the market economy.<sup>12</sup> Democrats appeal to neutral rights in respect to abortion, school prayer and religious morality. Republicans beseech neutrality when discussing the morality of economic affairs—worker safety, environmental protection, gun manufacture and energy policy. In the management of the welfare state too, liberal freedom is invoked in both its positive sense, by those seeking to secure a minimum level of security to make choices meaningful, and in its negative sense, by those who contest welfare as coerced charity that impedes the individual from doing what he or she will with their own finances. Although they may continue to disagree, both parties, and the conflicting visions of liberal freedom they advocate, share a political theory preoccupied with promoting individual autonomy, unfettered individual choice, and governmental neutrality, the end result of which, in both cases, is an impoverished image of citizenship.<sup>13</sup>

Today, public debate rarely strays from the vapid roots of conflicting visions of liberal freedom—negative and positive. “So familiar is this vision of freedom,” Sandel writes, “that it seems a permanent feature of the American political and constitutional tradition.”<sup>14</sup> Thus, as it practically ignores more than a basic moral or civic virtue, our hegemonic liberal freedom view is leaving us without the civic voice necessary to address the two concerns that render our public life, “rife with discontent.”<sup>15</sup> One is that Americans are anxious that they are losing control of the forces that govern their lives. The second is a fear that, at all social levels, the moral vigor that contributes to communal cohesiveness is losing its vitality. “If American politics is to recover its civic voice,” and address these growing discontents, Sandel argues then “it must find a way to debate questions we have forgotten how to ask,” such as, what economic arrangements are most respective to democratic self-government? And, why should larger questions of moral and civic virtue be precluded from our political debates?<sup>16</sup>

Michael Sandel’s central thesis is that the triumph of America’s liberal public philosophy has left America without the moral or civic vitality necessary to address its growing discontent. Thus, it is suggested that renewing the qualities of character necessary for self-government, including a revitalized community life, responsible economic policies, and a shared sense of common civic and moral understanding, requires an embrace of positive liberty that extends beyond that offered in contemporary liberal discourse. What is needed are democratic associations built on the strong positive liberty offered in republican democracy. Sandel argues that, in contrast to the weak positive liberty offered in liberal discourse, unencumbered by moral or civic virtue, this brand of strong positive liberty asserts a formative politics that cultivates those moral and

civic virtues essential to republican self-government. This brand of positive liberty, where persons come together in “civic spaces” to cultivate moral and civic virtue—education in public affairs, a sense of common belonging and security, and a common moral bond\*—contrasts sharply with the individualism and neutrality offered in liberal theory.

Due to the clash of liberal and republican principles, Berlin’s warnings and objections about the inherent coercion of such strong positive liberty must be addressed. His arguments suggest that the strong positive liberty characteristic of republican democracy is wholly undesirable due to its inherent oppression, undermining individual liberty, and the procedures of the democratic process. In response, it will be contended that republicanism, like positive liberty generally, does not logically need, nor have to result in the harsh forms that Berlin identifies. Rather, republican democracy, and the concept of liberty it promotes, offers something to democracy that our contemporary liberal philosophy lacks—a formative politics embodied in deliberative, civic engagement about the common good. In conclusion, it will be argued that it is a renewed civic life that offers our best hope for combating the anxieties that we feel.

### **The Rise of America’s Liberal Contentment: The Debate Between Negative and Positive Liberty**

When we speak of history, writes Isaiah Berlin, “we speak of the youth, the maturity, the decay of peoples or cultures, or the ebb and flow of social movements, of the rise and fall of nations.”<sup>17</sup> Clearly, this path, and our place in it, is marked by

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\* The implementation of a formative politics, characteristic of republican freedom, will be addressed later in the chapter.

obscurity rather than precision; a “river of time on which we float; . . . a moving stair which we have not created, but which we are born . . . and,” Berlin continues, “which we must willy-nilly accept.”<sup>18</sup> Historically, the United States is outgrowing its pangs of youth. It is maturing as a global power, bringing social and economic success to its own people, and increasingly, other peoples around the world. In its maturity, however, a liberal philosophy emphasizing individual rights, the ideal of neutrality and individual liberty is being mythologized as a timeless principle whose authority is becoming evermore universal. The American liberal myth has been described by John Gray as a “*tour de force* of high modernity” that has been assimilated with the institutions of the free market, universal human rights, a regime of limited government, and private property.<sup>19</sup> In this modern mythology, the American liberal regime has not, according to Gray, “arisen in definite circumstance [that] will at some time pass away.”<sup>20</sup>

The establishment of the American myth of liberalism’s universal and timeless authority, inspiring our current public philosophy, can be traced prior to the American Revolution. Of liberalism’s three underlying tenets—the priority of rights, the ideal of neutrality, and individual liberty—the first, asserting individual rights prior to government, or any conception of the good life, can be found in the birth of American constitutional theory a decade before the Revolution.<sup>21</sup>

Initially, the American colonists shared in common with the British a view that the constitution was indistinct from the government, and the laws it promulgated. According to this view, exposted upon by Charles Inglis, an American Tory, the constitution was “that assemblage of laws, customs, and institutions which form the general system of government.”<sup>22</sup> Thus, English constitutional theory, recognizing the

sovereignty of Parliament, regarded all of its laws as part of the constitution, and thus, no law could be considered unconstitutional. In this regard, American colonists seeking to protest English tax and tariff law as a violation of their liberty as Englishmen, were unable to articulate it in any legal sense. Thus, they had to appeal to abstract principles of justice and right, and give these principles priority.<sup>23</sup> “A Constitution and a form of government,” one critic wrote in 1776, “are frequently confounded together, and spoken of as synonymous things; whereas they are not only different, but are established for different purposes: All countries have some form of government, but few, or perhaps none, have truly a Constitution.”<sup>24</sup> With the ratification of the United States Constitution, the later adoption of The Bill of Rights, and the further adoption of the Civil War amendments\*, the framework was established for American constitutional theory to assert the priority of individual rights and popular sovereignty.

Tracing the history of American constitutional theory from its inception, and through its storied history in the United States Supreme Court, Sandel offers many examples of the constitutional priority of rights against government intervention, broadly reflecting the ideal of negative liberty. One example of the priority given to individual liberty is embedded in *Lochner v. New York* (1905). In this case, the Supreme Court struck down a New York state law prohibiting the employment of bakery employees in excess of sixty hours a week. Holding that New York’s law violated Fourteenth Amendment protections, the Court held the priority of baker’s right to contract labor over the interference of New York state. While this opinion clearly expresses the direct protection by the courts of the negative liberty set out in the Fourteenth Amendment—

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\* The Thirteenth, Fourteenth and Fifteenth Amendments.

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States”—it further represents negative liberty’s defense of “the excesses of industrial capitalism,” frustrating those reforms embodied in weak positive liberty—establishing conditions that make choice meaningful, albeit wholly independent. While establishing the priority of rights against government intervention, it would take another half century before the second tenet of our modern liberal philosophy, neutrality among competing ends, would be constitutionally protected.<sup>25</sup>

Our constitutional framework of rights against government intervention, combined with constitutional neutrality among competing ends, implicates the conflict between negative and positive liberty within the third tenet of American liberal philosophy: persons as independent selves capable of choosing their own values and ends, or simply put, individual liberty. While the *Lochner* case expresses the priority of negative liberty, this case fails to remain neutral toward competing values and ends. For, the Court’s opinion defends a particular economic model, placing *laissez-faire* economic rights over the right to achieve individual security. Nowhere in the Constitution, however, is a particular economic model implicitly or explicitly mandated as a priority over civil rights. “But how would it be possible,” Sandel inquires, “to find a basis for constitutional rights without attributing to the Constitution a particular conception of the good, without ranking rights according to the intrinsic value of the interests they protect?”<sup>26</sup> The answer is contingent upon how individual liberty—in its positive and negative senses—is conceptualized, and valued in a liberal democratic society.

“[C]onstitutional neutrality,” Sandel writes, “means that the Constitution requires states to be neutral among the ends its citizens espouse.”<sup>27</sup> This requires that the

Constitution be interpreted as a framework of rights, neutral to any conception of the good life, or to those values and ends its citizens pursue. The rights it must enforce, therefore, are those that free persons require to choose independent values and ends. In its constitutional theory, the Court, promulgated in Justice Stone's majority opinion in *United States v. Carolene Products* (1938), interpreted these liberties as those "necessary to realize the ideals implicit in the democratic process itself."<sup>28</sup> This interpretation, implicating the Bill of Rights as liberties given priority against government intervention, has the dual effect of securing individual access to the political process, as well as precluding prejudice from corrupting that process. Thus, the Court is able to act in the name of those values that give democracy its "moral force," rather than imposing controversial values on semi-sovereign democratic institutions such as the state legislatures.<sup>29</sup> In this way, civil rights and liberties are generally held as a priority over economic liberties or property rights due to their essential role in securing the democratic process, establishing the conditions by which humans may flourish, and to the establishment of a good society.<sup>30</sup> This defense, however, seems to preclude Constitutional neutrality in respect to rights. Prioritizing civil rights over economic liberties conflicts with the view that the Constitution provide a framework of rights neutral among ends.<sup>31</sup> Answering this paradox requires an examination of the dual role of positive and negative liberty in the institution of American liberal freedom.

The respect that our public philosophy places on individual liberty is primarily based on negative liberty. This is readily seen in the *Lochner* case, where the Court ruled in favor of the baker's freedom of contract. "On this view," Sandel writes, "government intervention, democratically sanctioned though it be, violates individual freedom."<sup>32</sup>

During the early twentieth century, however, when the Court's jurisprudence was encouraging the establishment of Constitutional neutrality, progressive critics contested the *laissez-faire* defense invoked by the *Lochner* Court. These critics argued that under the conditions of free market capitalism, bargaining power, unequally distributed, had the effect of undermining the liberty that provides contractual agreement their "moral force." "Contracts," Sandel cites a commonly held argument, "compelled by the scourge of economic necessity are not truly voluntary, but a kind of coercion." Nor, he continues, are they neutral.<sup>33</sup> This is clearly a positive libertarian argument, albeit weak, asserting the impact of "natural and social contingencies" on making free choices. "[T]rue individual freedom," Franklin Roosevelt argued in 1944, "cannot exist without economic security and independence. 'Necessitous men are not free men.'"<sup>34</sup> Thus, constraints placed on the market, under the contingency that citizens will be represented more equitably in contractual agreements, is justified under the liberal conception of "free" persons capable of choosing values and ends. Here, the term "free" surpasses the negative—the removal of restraint—and includes the positive—establishing conditions necessary for making effective choices.

In the context of American constitutional theory, such government intervention "does not violate but rather vindicates individual freedom."<sup>35</sup> Similarly, this intervention remains neutral. Rather than endorsing a particular conception of the good life, its limitation on negative liberty fosters an institution of choice that is less likely to be marked by an inequality of power. Thus, contemporary legislation that limits market forces, e.g. labor laws and welfare, rather than promoting a particular economic model or end, provides the individual a fuller respect for choosing his or her ends. More broadly



conceived, placing priority on civil liberties, ensuring equal access to the political process, asserts those conditions necessary for the individual to choose for themselves.

Sandel concludes his examination of the rise of America's liberal philosophy as embedded in constitutional theory with a landmark, compulsory flag salute case—*West Virginia State Board of Education v. Barnette* (1943). In this case, Justice Robert H. Jackson's opinion striking down the mandatory salute, provides a comprehensive statement of the dual goal of our liberal public philosophy. In regards to the priority of individual right against government intervention, he writes:

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to a vote; they depend on the outcomes of no elections.

And, in regards to Constitutional neutrality:

Free public education, if faithful to the ideal of secular instruction and political neutrality, will not be partisan or enemy of any class, creed, party, or faction . . . If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion . . .<sup>36</sup>

While the Court varies in its response to freedom, Justice Jackson's opinion clearly reveals the liberal jurisprudence of the Court. This statement further reflects Berlin's ideal liberal democratic society. Justice Jackson's opinion, implicating those rights that are implicit in securing the processes of liberal democracy as absolute, out of the reaches of any power, and accepted as "fundamental," express Berlin's first concern that the "free" society regards no power, but only rights, absolute. Justice Jackson's opinion, secondly, addresses Berlin's insistence that frontiers be established, not arbitrarily drawn,

within which the individual is inviolable. Here, Jackson interprets, although not for all time, a frontier of individual liberty in both thought and action. The Constitution, and the government it creates, promotes no orthodoxy of politics, religion or otherwise that may impede on individual thought.\* Similarly, by securing the fundamental rights of democratic association beyond the reach of any power, Jackson draws a clear line of action across which the individual is inviolable. Here, it was argued that the patriotism, citizenship and common understanding invoked in the flag salute should flow, not from compulsory state law, but from an inspired sense of justice drawn from the “fair administration of wise laws enacted by the people’s representatives.”<sup>37</sup>

These two cases, Sandel observes, exemplify the developing liberal jurisprudence of the Court. Implicit in these interpretations is the Court’s ability to constrain what majorities can decide, through the assertion of the priority of rights over government intervention. Our liberal democratic politics, however, is free to promote, debate and discuss—“whether in aggregating individual interests or in deliberating about the good of the whole”—any theory, philosophy or conception of the good life. Beyond its constitutional aspect, however, the liberal vision of the Court also describes our political practice.<sup>38</sup>

Speaking at the University of Montana’s sixth annual Mansfield Conference on ethics and public affairs, Sandel provided a penetrating commentary on America’s contemporary political agenda. While a liberal theory of the priority of right and neutrality has found powerful expression in constitutional law, it has similarly shaped political discourse generally.<sup>39</sup> For the past half century, he notes, the two major political

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\* The Court has not protected some forms of subversive speech.

parties have debated the role of the government in the market economy, the management of rights and entitlements in the welfare state, and the importance of civil rights. Like the issue of liberalism in constitutional law, these debates are centered around neutral conceptions of the good life, and respecting persons as free and independent selves capable of choosing their own values and ends. The result of such a narrow public philosophy, however, has been to limit our political debates.

At the conclusion of World War II, our liberal philosophy had been canonized in constitutional law, rapidly spilling over into our broader political debates, and eventually into broader conceptions of our individual selves. The vast and prosperous war economy, the triumph of freedom and democracy, and the “collective mastery” of America in world affairs, inspired President Truman to declare that America had achieved “the greatest strength and the greatest power which man has ever reached.”<sup>40</sup> The liberal regime, underpinned by a liberal political theory seeking a neutral framework of rights, made it clear that this strength and power should be exerted as each individual saw fit. The self-mastery of “voluntarist” freedom—where taking work and wage, and participating in public life became voluntarily—provided that sense of neutrality, and self-rule. And, from Roosevelt’s “economic bill of rights,” to Truman’s “Fair Deal,” to Johnson’s “Great Society,” the social, political and economic policies contingent with the welfare state, and the weak positive liberty that it idealized, unfurled across America. These developments, contingent upon a liberal theory of freedom—negative and positive—would mark the height of our liberal contentment, and go on to shape American political discourse from the mid-1940s to the present.

America's "moment of mastery" after World War II, and the political theory that came with it, inspired the debate between negative and positive liberty within the liberal ideal. Sandel notes that the social and economic arguments inspired by the weak positive liberty endemic of Green's "humane liberalism," roughly followed the lines promulgated by Roosevelt: "true individual freedom," Roosevelt declared, is contingent upon "the right to a useful and remunerative job . . . the right to earn enough to provide adequate food and clothing . . . the right of every family to a decent home . . . the right to adequate protection from the economic fears of old age, sickness, accident, and unemployment . . . [and] the right to a good education."<sup>41</sup> In this way, Truman and Johnson continued efforts to secure a minimum positive liberty for Americans. In response, *laissez-faire* critics, like Barry Goldwater in 1960, argued that "the choices that govern [a person's] life are choices that he must make, they cannot be made by any other human being, or by a collectivity of human beings."<sup>42</sup> Milton Friedman too, offered a classic negative liberty position in regards to the welfare state: "This seems a clear case of using coercion to take from some in order to give to others and thus to conflict head-on with individual freedom."<sup>43</sup> The great political debates of the last sixty years have been shaped by the conflict between conceptions of liberty more broadly conceived.

Sandel observes that the debates over liberal freedom shaping American political discourse, with its tunnel vision of individual rights and what constitutes our capability of choosing values and ends for ourselves, has inspired a "liberal self-image" of American life.<sup>44</sup> Citing Dr. Wayne Dyer, a self-help author of the 1970s, Sandel writes, "the road to happiness and freedom begins with the insight that 'you are the sum total of your choices . . . Viewing every emotion 'as a choice rather than as a condition of life' is 'the very

heart of personal freedom.”<sup>45</sup> In recent decades, this liberal vision of individual freedom has taken root as both our political and our civic character. “The image of persons as free and independent persons,” Sandel writes in response to the total hegemony of our liberal public philosophy, “unencumbered by moral and political ties [that persons] have not chosen, [finds] expression in politics, economics, law, philosophy, and the broader public culture.”<sup>46</sup> This narrow vision, however, has limited our political debates, and thus, become insufficient in articulating the disillusionment and discontent that many Americans feel toward public life.

For example, in the realm of economics, two considerations shape a great proportion of our political debate: prosperity and fairness.<sup>47</sup> Debate about tax proposals, budget proposals, regulatory action, energy policy, labor management and numerous other economic issues are defended on grounds of their positive impact on the equitable distribution of income, or their impact on economic growth. Generally speaking, the proponents of these measures, Sandel observes, “claim that their policy will increase the size of the economic pie, or distribute the pieces of the pie more fairly, or both.”<sup>48</sup> Rarely, if ever, do economic discussions offer concern for those fundamental economic arrangements that are most responsive to fostering effective, democratic self-government. While debates concerning prosperity and fairness are clearly important, they stymie any broader debate about democratic control over economic power, or the role of economics in cultivating those characteristics necessary for self-rule. Sandel further argues that the triumph of the welfare state, in accordance with the rise of weak positive liberty in our constitutional theory, has reduced political discourse to a “managerial debate” about the neutrality of government in administering individual rights and entitlements.

Increasingly, the public philosophy that inspire these debates, unconcerned with questions of moral or civic virtue, demonstrates an inability to articulate the growing anxiety and frustration Americans feel toward public life. While debating the management of the welfare state, or canonizing the priority of right and neutrality in constitutional law, are certainly not unimportant, Sandel argues that such a narrow liberalism lacks the “moral energies of democratic life” necessary to address the loss of self-government, and the erosion of community, underpinning the discontent of the American citizenry.<sup>49</sup> Thus, addressing these fears requires an understanding of how the hegemony of our public philosophy has been an actor in the fall of our liberal contentment.

### **America’s Loss of “Self-Mastery”**

Sandel writes that history rarely “marks its moments with precision.” Nineteen Sixty-eight, however, was an exception. “For, it was then,” he argues, “that America’s moment of mastery expired,” and our liberal contentment was challenged.<sup>50</sup> As never before since 1860, comments Theodore White, was “the confidence of the American people in their government, their institutions, their leadership,” shaken, shattered and broken.<sup>51</sup> The Communist offensive of the Viet Cong, the invasion of the American embassy in Saigon, the tumultuous events during the 1968 political season, the assassination of Martin Luther King, the race riots in urban ghettos across the nation, and the assassination of Robert Kennedy were the defining moments that marked a growing sense that “events were spinning out of control and the government lacked the moral or political authority to respond.”<sup>52</sup> As the next three decades unfolded, the growing

helplessness, disillusionment and discontent continued to grow. Combined with a public philosophy that replaced moral and civic virtue with the promise of more freedom and independence from one another, our public life was unable to respond effectively. Political scandal, inflation and energy crises, escalating involvement in world affairs, the increasing threat of terrorism, the stagnation of middle-class income, national debt and deficit crises, the rise of crime, drug use, and urban decay, and the decline of civic engagement have further degraded the sense that we, as Americans living during the most prosperous, free, and liberating period in the history of the world, are losing control of the forces that shape our lives.

The discontent that has accompanied the events of the last sixty years reveal that our liberal political theory, demanding a government, a political discourse, and a self-image neutral toward competing conceptions of the good life, is incapable of managing our growing anxiety.<sup>53</sup> For, a politics that ignores morality, civic virtue, or faith based institutions excludes from public life a healthy discourse of any larger moral, social, economic or political responsibility, loyalty, or solidarity. Sandel argues that by inculcating persons as “freely choosing, independent selves, unencumbered by moral or civic ties antecedent to choice,” our public philosophy denies us any feeling that we may be “claimed by ends we have not chosen.”<sup>54</sup> However, as members of families, ethnicities, cultures, traditions, economic models, as actors in the play of God or nature, or any other model of experience, we are inherently bound by obligations that we do not freely choose. “Why insist,” Sandel asks, “on separating our identity as citizens from our identity as persons more broadly conceived?”<sup>55</sup>

Clearly, our contemporary political debates do not preclude these responsibilities, loyalties or solidarities. But, these debates do tend to imply that they are only applicable within the private sphere, and should have no bearing on politics.<sup>56</sup> Thus, rather than conceiving liberty as contingent upon governing the forces that shape our lives, our public philosophy cultivates a sense of government that is neutral among these ends, within which the individual may choose their own values. A politics that excludes morality or civic virtue from the political sphere, however, tends to hollow out a moral void, which is then filled with “fundamentalists,” who “rush in where liberals fear to tread.” Groups from the right and the left—the Moral Majority, the Christian Coalition, and historically, Bellamy Christian Socialist clubs—according to Sandel, “seek to clothe the public square with narrow, intolerant moralisms.”<sup>57</sup> Secularly as well, this discontent, absent any larger moral or civic questions, causes us to unduly scrutinize the private lives of public officials. A political discourse, Sandel writes, “too spare to contain the moral energies of democratic life . . . becomes increasingly preoccupied with the scandalous, the sensational, and the confessional as purveyed by tabloids, talk shows, and eventually the mainstream media.”<sup>58</sup> While it must be noted that our public philosophy is not wholly to blame for these practices, it does create a moral and civic void within which “intolerance and other misguided moralisms” prevail.<sup>59</sup>

Ironically, our growing sense of disempowerment is another consequence of our liberal public philosophy. Despite the general advances in civil liberties over the last sixty years, the voluntarist conception of freedom has revealed that we are losing control of the forces that govern our lives.<sup>60</sup> Increasing job insecurity due to the expanding global economy, an anxious majority wedged between a poor class that has little hope of



recovery and a wealthy class that denies any civic responsibility, the stagnation of middle class income, the degradation of inner city neighborhoods combined with the sprawl of urban suburbs, and a policy of mass imprisonment supplanting the controls of community, conflict with the liberal self-image that characterizes our lives.<sup>61</sup> These great, “impersonal structures of power that defy our understanding and control,” are in direct conflict with a voluntarist liberal self-image that inculcates in us a belief that we are not subject to ends that we have not chosen. As we face a world dominated by these great sources of power, however, we are left with only small pools of resources, which we may exert to their fullest extent, but which can never acquire enough momentum that we may truly self-govern. Our liberal public philosophy, absent any moral or civic energy, and incapable of cultivating those conditions of character necessary for self-government in a society dominated by enormous sources of centralized power, is adding weight to our incapacity to address our burgeoning discontent.

The events of the past sixty years, coupled with a liberal vision of freedom that distrusts collective public action, has degraded American trust in government, trust in each other and trust in ourselves. A Gallop poll in 1964 observed that 76 percent of Americans believed they could trust the government in Washington to do the right thing most of the time. In 1994, that number had dropped to 20 percent.<sup>62</sup> In 1964, fewer than one person in three thought that government “wasted a lot of tax payer money.” In 1994, fully four out of five thought so.<sup>63</sup> In 1996, in regard to the honesty and integrity of Americans, 8 percent thought we were getting better, while 50 percent thought we were becoming less trustworthy. What is more, these statistics are increasingly linked to our conception of ourselves, our communities, and our civic lives. Robert Putnam notes that

in 1987, 53 percent of baby boomers thought their parents' generation was better in terms of its members "being . . . concerned citizen[s], involved in helping others in the community." In a recent survey, 77 percent of Americans think we are "worse off" because of "less community activities." During the 1990s, 80 percent of persons thought that Americans were becoming less civil. And, most intriguing, three-quarters of the American workforce termed the "break down of community" and "selfishness" as "serious" or "extremely serious" problems in America.<sup>64</sup>

Increasing numbers of scholars\* are drawing links between our inability to control the forces that govern our lives, and the decline of civic engagement, the erosion of communities, and our growing disillusionment with government. The fears, anxieties and discontents of the last sixty years, writes Sandel, "concern the erosion of those communities [that] intermediate between the individual and the nation, such as families and neighborhoods, cities and towns, schools and congregations." American democracy, he continues, "had long relied on associations like these to cultivate a public spirit that the nation alone cannot command."<sup>65</sup> While national sentiments of patriotism may inspire broad feelings of connectedness, and belonging, it has failed to inculcate the close knit moral and civic virtues that self-government requires. As republican theory teaches, "local attachments can serve self-government by engaging citizens in a common life beyond their private pursuits, by forming the habit of attending to public things; . . . 'to practice the art of government in the small sphere within [their] reach.'<sup>66</sup> As our liberal philosophy of individualism erode the desire to be attached outside of the self, for fear of

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\* A short list of these scholars includes Sandel, Putnam, Etzioni, and Walzer.

having our private pursuits threatened, we no longer seek to engage in a common life, attend to public things, or practice meaningful self-government.

It is a formative politics of civic engagement, where persons enter “civic spaces,” and carry on associated discourse about the common good, that may have the effect of fostering a democratic society where virtue, character-formation, moral judgement, and responsible economic organization are considered in public policy, and more importantly, in political debate. Further ignoring these issues, as our contemporary public philosophy commands, will increasingly disempower communities and threaten the “social fabric of democratic life.”<sup>67</sup> Before further examining how, and what costs may accompany the implementation of a formative politics, it is necessary to address some general critiques directed at the fundamental arguments of republican theory.

Critics contend that the claims of republican theory, “as eloquent and compelling as it seems in the context of our present, unhappy public life,” have inherent faults.<sup>68</sup> Russell Jacoby, in The End of Utopia, asks what this creed of a new “political agenda informed by the civic strand of freedom” really means. The answer, he suggests, is “not much or not clear.”<sup>69</sup> Jacoby indicts Sandel’s “goodwill and earnestness” as “liberalism that has lost its moorings.” It is hard, he continues, “to protest the sentiment and ethos, but it is also hard to know what it means aside from a general support for the liberal state and democratic politics.”<sup>70</sup> Perhaps the translation of Sandel’s theoretical ambitions to political practice are not clear (they will be addressed later in the chapter), but even so, Jacoby’s supposition that Sandel’s thesis is merely a “refurbished vocabulary to revive liberalism” is a bit hasty. For a prerequisite for Sandel’s brand of republican freedom is an inclusive community, without which, social cohesion and legitimate state authority is

impossible. Thus, while he maintains that individuals be self-determined, he does surpass liberal individuality by insisting that human freedom is closely allied with one's stake in shaping the fate of his or her community.<sup>71</sup> And, it is this sense of strong positive liberty that has inspired Isaiah Berlin's passionate critiques of republicanism as inherently coercive, anti-democratic, illiberal, and wholly undesirable.

Other critics strike at republican indictments of American civic life itself. While many institutions of civic life have eroded or disappeared, it is almost impossible to measure, some critics charge, with any accuracy that "civil society" or what others call "social capital" has indeed degraded so thoroughly.<sup>72</sup> There are others who contend, Alan Brinkely notes, that it is not clear that the debate between the negative and positive factions of America's liberal tradition have been wholly bound up to the idea of individual rights. "There are," he continues, "countless examples of definitions offered by both liberals and conservatives of the 'good life' and the 'moral society,' definitions that go far beyond a simple endorsement of personal liberty."<sup>73</sup> Upon listing these examples of the "good life," however—housing subsidies, highway building, environmental regulations, civil rights and affirmative action, public support for the arts, as well as conservative concepts of how families and people should live—it is clear that these, in fact, do not define any conception of the "good life" outside of our liberal theory. Rather, they are the conditions, institutions, programs, and general guidelines by which the individual may choose, for themselves, a vision of the good life.

The most potent question surrounding the republican critique, however, is how its advocates define community itself.<sup>74</sup> "Community," critics charge, is merely a shrouded term for localism. A healthy community, the republican argument goes, depends on

cohesive families, churches, neighborhoods, schools and fraternal societies. This idea of community, critics argue, is a prescription, “not for harmony, but balkanization and conflict.”<sup>75</sup> The dilemma of contemporary America is to find a way for the diverse peoples and interests found throughout this expansive nation to live together peacefully and productively as a whole. While this is clearly a sound critique, it is, for better or worse, a defense of the hegemony of our liberal public philosophy. For it prioritizes individualism and neutrality over moral or civic duty. If our liberal theory of individuality and neutrality has eroded our civic lives thus far, civic organizations will continue to be incapable of bringing together local, diverse populations, thus further sequestering persons in the localism these critics seeks to scrutinize.

### **Conclusion: Isaiah Berlin and The Implementation of Republican Positive Liberty**

Within the republican tradition, social and political relationships founded upon a formative politics draws a clear and permanent distinction with Berlin’s liberal theory. Rather than defining rights as absolute principles neutral to particular values and ends, “republican theory,” Sandel describes, “interprets rights in the light of a particular conception of the good society—the self-governing republic.” In contrast to the liberal conception which views rights as prior to government intervention, republicanism affirms a politics *of* the common good, seeking to cultivate in its citizenry those conditions or qualities of character necessary for deliberative self-government. In short, the republican society is invested in the production of citizens who share in the political destiny of the community. Under this conception, certain “dispositions, attachments, and commitments”—knowledge of public affairs, security, belonging, and moral

connectedness—are essential to effective deliberation about the common good, and thus, “republican politics regards moral character as a public, not merely private, concern.” In this way, Sandel continues, “it attends to the identity, not just the interests, of its citizens.”<sup>76</sup>

Republican freedom similarly contrasts with the liberal demarcation between individual liberty and the political institutions that necessarily constrain that liberty. Instead, republicanism views liberty as contingent upon, or a consequence of, self-government. That is, the republican view understands the free person as one who controls the fate of the political community. Thus, while liberal conceptions of freedom seek to guarantee a minimum of individual rights, promoting a voluntarist conception of liberty, republican freedom is “internally connected to self-government and the civic virtues that sustain it.” Subject to a certain form of public life, therefore, the republican society depends on the cultivation of civic virtue.<sup>77</sup>

Early in the history of the United States, a philosophy of republicanism dominated public life. In this tradition, free persons were viewed as those civic entities shaping the fate of the political community. “Americans of all ages, all stations of life, and all types of disposition are forever forming associations,” writes Tocqueville of early nineteenth century America. “There are,” he continues, “not only commercial and industrial associations in which all take part, but others of a thousand different types—religious, moral, serious, futile, very general and very limited, immensely large and very minute.”<sup>78</sup> While this reflection of an associated citizenry may seem ubiquitous of American life, such association in nineteenth century America was not understood as an expression of freedom, but as an integral part of living a free life. That is, in contrast to rights based

citizenship and freedom implicit in our liberal philosophy, republican theory views liberty as contingent upon the *duties* of citizenship. “A nation may establish a free government,” Tocqueville continues, “but without municipal institutions it cannot have the spirit of liberty.”<sup>79</sup> Thus, while liberal freedom demarcates, through a framework of neutral rights, our identity as citizens and our identity as free persons “more broadly conceived,” republican theory considers liberty to be entwined with our share in self-government.

The republican conception of freedom adopts the language of strong positive liberty. Rather than limiting itself to securing those conditions that make freedom meaningful, yet wholly neutral to the values and ends persons espouse in utilizing that freedom, this tradition seeks self-government in its most prodigious sense. As Berlin writes, “the ‘positive’ sense of the word ‘liberty’ derives from the wish on the part of the individual to be [his or her] own master.”<sup>80</sup> Indeed, republican self-government reflects this desire to master one’s self by participating in those forces that control what the individual is free to do or be. Politics, therefore, must seek to cultivate in citizens those qualities of character necessary for self-rule.

It is the conflict that arises between the principles of liberal democracy, dependent upon negative concerns of how far government interferes with the individual, and the principles of republican democracy, dependent upon positive concerns of how the citizenry may become capable of self-government, that leads to Berlin’s most passionate critiques of republican positive liberty. Within the positive, or republican view of liberty, crucial links are drawn between individual rights and the good society, and between individual liberty and deliberative self-government. Such links, Berlin argues, requires,

“the possession by all, and not merely by some, of the fully qualified members of a society of a share in the public power which is entitled to interfere with every aspect of every citizen’s life.”<sup>81</sup> To consider human freedom as wholly contingent upon one’s participation in shaping the course of the political community, and to regard political rights as subject to a particular conception of the good life—deliberative self-government—clearly suggests that republicanism presupposes a single, universal way of life which may be forced upon the immature, ignorant, corrupt, or irrational individual.

The demands that accompany republican citizenship—“excellences of character, judgement, and concern for the whole”—are not characteristics that persons are born with, purchase, or cultivate in a voluntarist society. Rather, republican critics argue, “good citizens are made, not found.”<sup>82</sup> The task of “making” good citizens, however, is not, like its liberal counterpart, an impartial or unbiased process. Rather, it requires particular values to be inculcated in persons: education and security, moral and civic virtue, and a common understanding and caring for the whole rather than the self. Immediately, Berlin’s lecture warns of an inevitable political radicalism: “[T]o manipulate men, to propel them towards goals which you . . . see, but they may not, is to deny their human essence, to treat them as objects without wills of their own, and therefore degrade them.”<sup>83</sup> In short, to “make” persons “free” denies that characteristic in human beings which makes them human beings, namely, that their values, and only their values are ultimate. Thus, according to Berlin, the inculcation of conditions of character to render the individual free, are, at bottom, elitist and coercive\*.

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\* Sandel recognizes the same critiques.



Berlin argues that if one's liberty is contingent upon their inclusion in shaping the destiny of the political community, and, if such inclusion presupposes the cultivation of certain values, then, "this renders it easy for me to conceive of myself as coercing others for their own sake, in their, not my, interest."<sup>84</sup> Presently, such elitism is removed from traditional notions that equate the capacity for citizenship with categories of birth, historically excluding women, slaves, or resident aliens.<sup>85</sup> Rather, the elitist argument flows from the responsibilities that accompany republican self-government. And, as the responsibilities associated with republican freedom mount, the more coercive it becomes. "For given the demands of republican citizenship," Sandel writes, "the more expansive the bounds of membership, the more demanding the task of cultivating virtue."<sup>86</sup> "And yet," Sandel continues, "for all its episodes of darkness, the republican tradition, with its emphasis on community and self-government, may offer a corrective to our impoverished civil life."<sup>87</sup>

Today our current public philosophy is dominated by the hegemony of a liberal political theory. There are, however, Sandel notes, some quiet discussions about renewing the formative politics of republicanism.<sup>88</sup> He notes that occasional comments, from across the political spectrum, have suggested a possible resurgence of concern "for the development of character in the citizenry," and a 'growing awareness that a variety of public problems can only be understood—and perhaps addressed—if they are seen as arising out of a defect in character formation."<sup>89</sup> On both the right and the left, prominent leaders have declared that our growing discontents "are rooted in the loss of values, in the disappearance of work, and the breakdown of our families and communities."<sup>90</sup> The implementation of a formative politics that may renew questions of character formation,

the cultivation of civic virtue, and responsible economic policy for democratic self-government, may not, therefore, be a wholly speculative endeavor.<sup>91</sup>

The cultivation of citizens, the central task of republican democracy, may at first appear, as Berlin so vehemently argues, elitist, coercive, and wholly removed from our current liberal politics of social and economic development as embedded in individual rights. The implementation of a formative politics, however, would not require the total usurpation or transcendence of our current politics. Neither does it require that individual conceptions of the self are collapsed into, or wholly identified with, conceptions of the social whole.\* It requires us not to supplant, but rather to surpass the limits of our contemporary liberal public philosophy by building upon, and strengthening the positive liberty already offered in contemporary politics.

The first requirement of a self-governing republic is a more focused emphasis on education in public affairs, and attending to public things. Today, our liberal positive liberty demands that each individual is afforded the resources for basic education. Implementing a formative politics further requires that education inculcate in students a philosophy that human beings are, by nature, political, and that to be free requires that one exercise a capacity to participate in deliberations about the common good, and the public life of the community.<sup>92</sup> Education, therefore, must build upon current compulsory models to include skills for engaging in effective political activity, including a basic knowledge of political processes and systems, deliberative skills, and most important, the value of political association in empowering citizen participation and influence. By providing citizens the necessary resources for establishing their own public

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\* Such radical forms were characteristic of the Nationalist and Fascist regimes of the mid-twentieth century.

life, and providing them the power of deliberating about community needs, they can thereby effectively participate in political processes, thus renewing a basic sense of self-government. The articulation and aggregation of a common good, however, further presupposes that citizens share a sense of social and economic belonging and security.

Accompanying the necessary prerequisite of education in public affairs, societies built upon a philosophy of self-rule further require a shared sense of belonging. If individuals are to effectively air their contents and discontents, deliberate about them in a meaningful way, and settle disagreements through compromise, they must feel a shared sense of legitimacy about the process. In 1994, three-fourths of Americans felt that the government was run by a few big interests, seeking narrow benefits, rather than a common interest seeking benefits for all.<sup>93</sup> Thus, a politics of self-rule must be founded upon notions of inclusion and belonging rather than the exclusive power of corporate or other financially based interest, or fundamentalist groups whose agenda does not reflect the values and ideals of the majority. To combat such usurpation of the political process, the individual must be provided a minimum sense of belonging for entering into the political life of the community in an effective and confident manner.

Social and economic responsibility as a prerequisite for the formative politics of republicanism begins with the basic security to provide for one's fundamental needs, and the needs of those who depend on them. "When [a man or woman] is born," writes Erich Fromm, "the stage is set for [him or her]. [He or she] has to eat and drink, and therefore [one] has to work; and this means [persons have] to work under the particular conditions and in the ways that are determined for [them] by the kind of society into which [they are] born."<sup>94</sup> Today, the individual is required to secure productive activity that will

provide for their basic needs. For those who are destitute, welfare provisions are fundamental in providing needed security. Like education, however, a republican society demands that these tenets of our productive lives be strengthened with a direct focus on self-government. “Absent fair social and economic conditions,” Sandel writes, “persons cannot truly be free to choose and pursue their own values and ends.”<sup>95</sup> Thus, while our current policies may provide the resources to secure productive work, a republican politics would further require that employment is guaranteed for every citizen, and that productive activity be “virtue sustaining.” That is, for labor to promote the virtues of republican liberty, it must be guaranteed to all citizens, and it must be “carried out under conditions likely to cultivate the qualities of character that suit citizens to self-government.”<sup>96</sup>

The grafting of republican ideals within labor contexts requires a market system where concern is placed on those conditions that best foster self-rule. This requires that economic debate surpass the two poles around which it currently circulates—productivity and fairness. In addition, it must ask questions regarding cooperation rather than unfettered competition, and democratic rather than oligarchic economic policy formation. If such economic debate were achieved, it may lead to a market system characterized by a labor force whose basic resources to secure productive activity included their ability to participate in those decisions that affect his or her economic life. The individual’s need for security, and his or her need to secure productive work are principles that are currently unalterable by the individual laborer. Through a republican politics of self-rule, however, the cultivation of self-government may allow the individual to reign in those “forces”—centralized economic forces and the stagnation of middle-class income, the

denial of civic responsibility by vast numbers, the desertion of traditional communities, mass imprisonment supplanting traditional communal control—that currently dictate the ways in which they achieve their needed security.

Republican requirements of security and belonging further allude to a shared concern for the whole of the community. Today, our liberal public philosophy of individualism generally regards community activity, such as basic community service, or participation in local associations, as an infringement on our individuality, and thus, undesirable, or in some cases, punitive. While this does not characterize the attitude of all Americans, there is a significant decline in our associational life as a whole. As Putnam notes, “in the mid-1970s nearly two-thirds of all Americans attended club meetings, but by the late 1990s nearly two-thirds of all Americans *never* do.”<sup>97</sup> In combating the decline of associational life, a republican society translates attendance of public things into assumptions about citizenship and freedom. In the basic logic of republicanism, the individual who is unconnected or unconcerned with the community at large, even in its most basic sense of participating in local community organizations, is rendered ignorant of the common good, thus precluding him or her from effectively participating in the processes that shape the political fate of the community, and in turn, render them unfree. Thus, a formative politics of republicanism offers a renewal of “civic spaces,” where citizens may come together in socially bridging groups to deliberate the common good. In these spaces—churches, civic centers, schools, fraternal associations, PTAs, libraries, taverns, and labor unions—the “distinctive moral language of civil society” may be renewed—the language of community, family, citizenship, and mutual obligation.<sup>98</sup>

While these groups may address purposes that exist outside politics generally, they “inculcate the habit of attending public things,” foster a sense of trust in fellow citizens, assert responsive and accountable political regimes, foster cohesive communities, families, and neighborhoods, and exert a generalized reciprocity among citizens. In short, a public life that is characterized by a vital sense of association, translated into assumptions about citizenship and freedom, prevents public life from eroding into “an undifferentiated whole.”<sup>99</sup> It is a central claim of contemporary republicanism that these municipal structures of republican democracy will allow for Americans to address those civic concerns that are currently lost in our liberal political philosophy. This philosophy, Sandel concludes, “that banishes moral . . . argument from political discourse makes for an impoverished civic life.”<sup>100</sup> It further precludes our desire for self-government, because its images of neutrality and liberal individuality, “unencumbered by moral or civic ties [we] have not chosen,” limits the sense of public spirit and knowledge, communal security and belonging, and our sense of common understanding that supply us with the conditions of character necessary for self-rule.<sup>101</sup>

Morally too, the individual must achieve a bond with the community, or else the aggregation and articulation of a common good becomes impossible. Whether non-secular or secular, public or private, or social or economic, a shared moral sensibility is necessary for achieving the sense of community required for self-government. Today, the United States employs a policy of mass imprisonment, supplanting the common moral controls of community. “At the same time,” John Gray observes, “affluent Americans are withdrawing in ever larger numbers from cohabitation with their fellow citizens into gated proprietary communities.”<sup>102</sup> This “desertion” by large numbers from

society, whether by coercive means through imprisonment, or voluntary means through urban sprawl, hollows out the moral spirit that our social institutions—the family, the community, the nation, and the business corporation—are wholly contingent upon. America today, Gray argues, reflects Jeremy Bentham’s dream of a hyper-modern society, constructed on the model of an ideal prison.<sup>103</sup> Clearly, such a society lacks the civic and moral necessities characteristic of a republican democracy.

In conclusion, it may be argued that the implementation of a formative politics of republican democracy may avoid the elitism and coercion that Isaiah Berlin views as inherent in such societies by recalling, once more, that positive liberty, even in its republican contexts, need not “take such a harsh form.” Instead, democratic self-government that relies on a formative politics of civic engagement can seek to build upon, strengthen, and ultimately surpass the positive liberty inherent in our current public philosophy. Implicit in our liberal model is a sense of individual “independence and judgement.” Building upon this liberal ideal would be a necessary precursor for the uncoerced and inclusive deliberation about the common good.<sup>104</sup> Thus, it is the goal of a republican philosophy to build upon the independence and procedural judgement of contemporary liberalism, by inculcating in persons the desire to be self-governed. In this way, republican democracy may eventually surpass the limits of liberalism, while avoiding the coercion of “republicanism-from-above.”

Tocqueville argued that America’s unique republican democracy of the nineteenth century was implemented through “the slow and quiet action of society upon itself.”<sup>105</sup> Whereas Berlin assumes that deliberative self-government constitutes a monistic way of life, and that the common good is, of necessity, “unitary and uncontestable,” it must be

recognized that a formative politics, embodied in cohesive communities that come together in myriad capacities to air their discontents, and discuss, debate, implement and amend proper courses of action, can be instituted from below, through, according to Sandel, “a complex mix of persuasion and habituation.”<sup>106</sup> Rather than collapsing the individual into the social whole, republican democracy can maintain aspects of our liberal independence and individual judgement, while seeking to fill the space between the individual and the community with a progressive republican philosophy. Progressive scholastic curricula emphasizing attendance in public matters, an advanced social net providing both economic and social security, a greater sense of belonging and moral connectedness, and renewed civic institutions that bring people together in myriad capacities, not exclusively political, will allow citizens to deliberate the practices, values, ideals, and institutions that both separate and relate them. This republican model may offer hope for combating our current anxieties about public life.

Summarily, the implementation of a democratic republicanism requires, at its most basic level, a renewal of those municipal groups and institutions associated with close knit communities, townships, schools, religions, “virtue-sustaining” occupations and local government organizations that cultivate the conditions of character necessary for self-government. Neither America’s regulated market economy in its present form, current welfare provisions, nor our contemporary public philosophy of individualism and neutrality are, in the words of one U.S. Senator, “equipped to solve America’s central problems, which are the deterioration of our civil society and the need to revitalize our democratic process.”<sup>107</sup> While our current philosophy retains that necessary independence and judgement that combats the coercion and elitism that Berlin so



passionately warns against, republicanism must seek to build upon, strengthen, and ultimately surpass the positive liberty offered in our current liberal discourse.

In light of the close theoretical links between republican freedom and positive liberty, it is clear that Berlin would find the late twentieth century triumph of political liberalism, even with the minimal amount of positive liberty implicit in the welfare state, a more practical political compromise for protecting that essential characteristic of the human being. “[We] cannot always avoid choices,” he writes, “[we] cannot avoid them . . . for one central reason, namely that ends collide; [we] cannot have everything.”<sup>108</sup> Considering this fervent embrace of value-pluralism, and his embrace of negative liberty, it is clear that Berlin would advocate the sort of public philosophy endemic of contemporary American democracy. While surely finding some of our social faults and policies distressful, Berlin would ardently maintain that providing a framework of neutral procedures above particular outcomes to be the most humane ideal. In “Two Concepts of Liberty,” he argues that the positive liberty championed by republican politics would, in contrast, necessarily undermine our essential characteristic by demanding too much of the individual, and imposing a politics that would dictate his or her life. In the end, he argues, strong positive liberty is prone to threaten individual liberty through a politics of elitism and coercion, further damaging healthy democratic societies.

“The triumph of despotism,” Berlin writes, “is to force the slaves to declare themselves free.”<sup>109</sup> With the opening of a new century, Americans increasingly find that they have less control over the fate of their lives, yet they consider themselves to be living during a time of unparalleled prosperity and national dominance. These sentiments, inspired by a public philosophy that champions individuality above

community, neutrality above morality in public affairs, and rights above government intervention, are translated into feelings of unfettered individual liberty. Today, we feel more free than at any time in our history, but we are increasingly shaped by hands of economic and political forces that we believe we have no possibility of controlling. Without renewing any larger questions about our public character, the character of our communities, and our shared purposes and ends, we are faced with the possibility that we may lose all sense of self-government. Thus, it may be that our liberal public philosophy, and the negative liberty at its heart, has inspired us to declare ourselves free, when the conditions for exercising that promised liberty are clearly insufficient.

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