

# C H A P T E R

# 3

## Liberty

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## INTRODUCTION

Consider the following sentences—

The BA class wants to have a free period (state of affairs).

I feel free to talk to my teacher (perception).

I am totally free to choose my career (choice).

Even in the 21st century, a substantial part of South Asia's population is not free from the clutches of poverty (denial of material needs).

No country should be denied its freedom (denial of a sense of dignity).

Now, let us substitute the term liberty wherever 'freedom' has been used in the above instances. Each of these sentence brings to the fore a different dimension of the concept, defying a single definition of liberty. They also highlight concepts other than liberty—equality, right, justice, etc. How does one then delineate and distinguish the concept of liberty?

### ■ MEANING ■

Let us take the following sentence as an example—'I am at liberty to learn how to drive a car.' To begin with, it means there are no hindrances to your decision. Nobody physically stops you from learning how to drive a car. Second, the existence conditions for learning how to drive a car are available and accessible. So, you would have to have access to a car, a person who is willing to teach you how to drive, streets where it is safe for you to practise driving, etc. Third, and in a certain sense this precedes the first two, you have a choice to learn how to drive a car. So, the concept of liberty carries three connotations—the notion of *choice*, the *absence of constraints* to make and exercise such a choice, and the *existence conditions* that enable you to actuate the choice.

### ■ EVOLUTION OF THE CONCEPT ■

Liberty as a concept has been viewed variously by thinkers in various stages of the history of political thought. Each of these views expresses the thinker's understanding of the historical phase in which the concept evolved and is in sync with the larger philosophical outlook of the thinker. Let us understand the views of the various thinkers and see to what extent each of them mirror the three connotations of liberty—choice, absence of constraints, and existence conditions.

Read the following sentence and observe the meanings that it gives rise to—‘I am free to take my political theory exam.’ Invariably, the first thing that comes to one’s mind is that one is not restrained from taking the exam. Now, let us look at the reasons for which one wants to take the exam. Broadly, one wants to take the exam to clear it and secure career prospects. Two immediate reasons can be stated—first, it is necessary to take the exam if one has to be promoted to the next level; second, if one does not take the exam, one is declared to have failed the paper. So, the fear of failure impels one to take the exam. Let us take the example further. My future security depends on clearing the exam. But I am not prepared for the exam. In this context, if I am at liberty to take my exam and do whatever I can to secure my future, does it include the liberty to cheat in the exam?

It is this understanding of liberty that is put forward by **Thomas Hobbes** in his fictional state of nature. According to Hobbes, liberty or freedom signifies the absence of all impediments to action that are not contained in the nature and intrinsic quality of the agent. As Hobbes would explain, it is proper to state that the person who is tied with chains wants the liberty to leave, as the impediment is not in the person but in his chains, whereas that cannot be said of one who is sick or lame, because the impediment is in oneself. Fear and necessity, for Hobbes, are the motivating factors in human nature that impel them towards liberty. As he explains, a man sometimes pays his debts only for fear of imprisonment, which because nobody hindered him from detaining, was the action of a man at liberty.

Two issues emerge. One, can the act of one to preserve oneself be justified as an act of liberty even if it violates the safety of another human being(s)? Two, do you think the action of a person based only on fear or necessity is an act of liberty? Would you say that the act of begging due to the fear of starvation or the necessity to eat one square meal a day is an act based on liberty? After all, the beggar is not physically restrained by anybody in the act of begging.

While such an understanding of liberty does take into account the ‘absence of constraints’ aspect, it totally undermines the notion of choice and does not recognize any kind of moral framework. Going back to our example of wanting to learn how to drive a car, one may want to learn to drive a car as there is no other mode of transport available or because one is coerced into it. However, for it to be a decision based on liberty, the decision has to be based on the fact that one wants to learn or does not want to learn driving. It is this notion of choice that is conspicuously absent in the examples by which we understand Hobbes’s view of liberty. The beggar does not have a choice on whether s/he wants to beg or not. Similarly, a dacoit cannot rob or kill anyone and explain it as an act of liberty to preserve herself/himself.

Hobbes’ understanding of liberty, based on considerations of fear and necessity rather than choice, does not make a clear distinction between acts of liberty and acts under the threat of coercion. For choice to be exercised in the exercise of liberty, existence conditions have to exist. Such conditions can include material resources as well as a moral framework. The scope to exercise choice in a moral framework finds place in Locke’s understanding of the concept.

Let us reconsider the example of choice cited at the beginning of the chapter—‘I am totally free to choose my career.’ This basically throws up two points—‘no one should

dictate to me what my career should be. So, if I want to be a VJ (video jockey) or a writer, I should not be forced to become an IAS (Indian Administrative Services) officer or do an MBA course. However, my choice of career should not harm anybody. So, I should not choose a career as a thief or murderer.'

It is this view of liberty as choice exercised in a moral framework that comes across in **Locke's** understanding of the concept. This moral framework is based on the Laws of Nature of which equality is a central tenet. The Law of Nature, according to Locke, is that no one ought to harm another in his life, health, liberty, or possessions. Liberty as a natural right, for Locke, is no more than the liberty to do what the Law of Nature allows—in other words, what is morally permitted. For Locke, each individual is free to the extent the exercise of freedom does not violate the tenet of equality. The exercise of liberty should not be at the cost of equality.

Now, what does liberty as a natural right imply for Locke? As a natural right, liberty is a universal right. It is a right held equally by all in the state of nature. It is also a right that is bestowed by nature along with the right to life and property. As a natural right, liberty is innate in human nature, is universal and can be apprehended by reason. As a right bestowed by nature, Locke views it as inalienable. In other words, one cannot waive from one's person the right to liberty. As Locke states, 'Every One ... is bound to preserve himself, and not to quit his station wilfully'; so by the like reason when his own Preservation comes not in competition, ought he, as much as he can, *to preserve the rest of Mankind*' (Locke 1988: p. 271, emphasis added).

As a natural right, liberty precedes civil and political society in Locke's thought. The contract of civil society is drawn to preserve natural rights, including liberty. While the political society regulates liberty, it has no power to constrain it. The Lockean individual is guided by the faculty of reason in the exercise of freedom in conditions that are alterable. So, the Lockean individual will not seek the freedom to want to fly like a bird but will seek the freedom to be heard even if in a minority.

While the moral framework of Locke ensures existence conditions that qualify the 'absence of restraint' and the element of choice, it does not specify ways to bring about existence of conditions to facilitate choice. Let us understand this through the earlier example—I am free to choose my career. In the Lockean scheme, this will amount to the following—Nobody has a right to dictate to me my choice of career. I have as much right to choose my career as any other person. My choice should not harm anybody.

These implications, however, do not take into account restraints on choices that are not natural. Again, going back to the example of a beggar who begs for a living—nobody need have dictated the beggar to choose begging for a living and neither does it harm anyone. Does it mean that the beggar chose to beg as a natural right?

Till now, the concept of liberty or freedom has been discussed basically at the level of the individual. Also, the exercise of liberty is either preserving oneself (Hobbes) or operating within a moral framework (Locke). But neither of these conceptions addresses the hindrances of hierarchy and inequality in the exercise of liberty. While Locke does consider natural equality as a prerequisite, social inequalities are not addressed at all. It is this hindrance to liberty that is addressed in Rousseau's thought.

Consider the instance that some of us own a vehicle and travel by it in the city. This can have two possible effects. One, it introduces a hierarchy between those who own a vehicle and those who do not. Two, it increases pollution levels that is harmful to all. So, liberty here can be understood as liberating the people of the city from the hierarchy and inequality between a few people owning vehicles and those who do not. Liberty is also choosing the right option, in this case, a pollution-free option.

**Rousseau** considered freedom as a collective venture, and as freeing oneself from selfish motives towards a larger good for the entire group. His conception of liberty liberates human beings from the hierarchical and unjust inequality of society. Rousseau views this inequality as the constraint in the realization of liberty. Unlike Hobbes and Locke, liberty is not a natural right for Rousseau. Liberty for him is liberation from a state of unfreedom which comes into being with the emergence of civil and political society. Constraints on liberty refer to the constraints of one's baser nature that does not facilitate human nature to think of the good of all. Constraints also refer to the inequality in society that does not allow for the exercise of liberty.

A people is liberated only through obedience to law. Law is equated with the expression of the general will of the whole community. The individual in obeying the laws obeys one's own self as the author of those laws, authored by virtue of the capacity of uniting with others in the community. An individual can be free only by being a part of a free people who obey laws.

For Rousseau, one is liberated when one is free of personal servitude. His way out is to make individuals dependent not on other individuals or institutions, but upon the whole community, which protects the goods and persons of every citizen with the united force of all. The individual is liberated from subjection to one's lower nature in uniting with the whole community. As Rousseau states, 'a free people obeys, but it does not serve, it has leaders but no masters; it obeys the laws, but it obeys only the laws, and it is due to the strength of laws that it is not forced to obey man'. It is the understanding of freedom through obedience to law that is captured in the famous phrase of Rousseau in *The Social Contract*—'Man is born free, but everywhere he is in chains.'

The element of choice in Rousseau's thought is quite interesting. It appears that he seems to equate choice with the right to choose the right option, where the *right option* is pre-decided. For example, driving a car can be seen as something that contributes to pollution. Pollution is harmful to all. It can then be decided that the right option is to ride a bicycle rather than drive a car. So, the existence conditions would be tailored not towards conditions that enable them to drive a car but conditions that are friendly to cyclists and pedestrians as also conditions that would check pollution levels and be in the interest of the larger good.

The word freedom may also have a parallel, though simplistic, reference to the idea of pleasure. Utilitarians see a positive correlation between freedom and pleasure. Freedom is about seeking pleasure and avoiding pain. This is best captured in Bentham's works. Liberty for **Bentham** is viewed through the utilitarian maxim of 'Greatest Happiness of the Greatest Number'. In this view, the liberty of the rapist or the murderer comes into practical competition with that of the victim.

Let us look at two examples of pleasure giving activities—

- (a) Watching sunset is an activity that gives me pleasure. I should be free to watch the sunset.
- (b) Taking drugs gives me pleasure. I should be free to take drugs.

Since the utilitarian understanding of freedom does not make any distinction between different kinds of pleasures, there is no difference between the kind of pleasure felt under (a) and (b).

There can be four possible reasons because of which one can't endorse such a view of freedom in an unqualified manner. One, such an understanding of freedom is not accompanied by a sense of moral responsibility. The drug addict may indulge in anti social activities that may cause pain to a large number of people. Two, it violates the harm principle—that one's exercise of liberty should not harm the life, liberty and possessions of others—that Locke qualifies his understanding of liberty with. Three, because the pleasure of one person (the drug addict) can cause pain to several people, the utilitarian maxim of the 'Greatest Happiness of the Greatest Number' is violated. Four, this understanding though very similar to the Hobbesian understanding of liberty, does not have the sole qualification that Hobbes sets for the exercise of freedom, namely, self preservation. So, the drug addict's freedom to take drugs as it gives him/her pleasure may even be a self-destructive move.

This simplistic understanding of liberty within the utilitarian framework has been fine-tuned to a great extent in the work of Bentham's disciple—J. S. Mill's *On Liberty*. This view will be discussed in detail in the next section.

## ■ J. S. Mill on Liberty

Look at yet another example cited in the beginning of the chapter—The BA class wants to have a free period. On the face of it, it appears as a collective decision of the class. Now, there might be a few students (as few as even one student) who may want the lecture to take place. What do you think should be the decision of the teacher? An almost immediate response may be that since a majority of the students do not want the class to take place, the opinion of a few students (or one student) who want to attend the lecture should not be considered. This can generally be justified as a democratic decision. Such a 'democratic decision', however, is at the cost of suppressing the individual decisions of the students who want to attend the lecture.

The liberty not to have one's individual opinion suppressed by collective decisions of society and state is at the core of J. S. Mill's understanding of liberty.

Mill's views on liberty are based on his understanding of utility 'in the largest sense grounded on the permanent interests of man as a progressive being'. His essay *On Liberty* seeks to protect individual liberty from the interference of state and society. He takes the concept of liberty beyond the utilitarian doctrine of Bentham by holding the view that a proper conception of happiness includes freedom as individuality. For Mill, individuality

was a prerequisite for the cultivation of the self. This would enable society to progress as each individual is useful in proportion to the extent they differ from the rest.

J. S. Mill qualified utilitarianism with two considerations—(a) in applying the principle of utility, consideration has to be given both to the quality and quantity of pleasure, and (b) utilitarianism need not involve a radical break with traditional morality. Instead, everyday rules of morality can be seen as the utilitarian thumb rule.

It is almost inevitable for conflicts to emerge from these qualifications. After all, it is very difficult to prove that watching a classical dance recital is more pleasurable than eating *bhelpuri* on the streets (or vice versa). Conflicts can emerge even for Mill's second qualification. Take the statement 'Honesty is the best policy.' One can find arguments as to how this will result in greater pleasure as well as greater pain. Liberty for Mill can be regarded as a principle that mediates such conflicts. Freedom or liberty, for Mill, is also valuable as an end in itself. This is not to say that even a 'wrong' act is to be valued if it is freely chosen. What it indicates is freedom as an essential component of the ideal of individuality. It is by virtue of the freely chosen actions that an individual is regarded as a worthy person.

Mill discusses liberty under three aspects—liberty of thought and discussion, principle of individuality, and limits of authority over an individual's action.

Liberty of thought and discussion is often understood as freedom of expression. It is not just the right of an individual to express an opinion but also includes the right of individuals to hear opinions expressed. So, while freedom of expression is sought to be exercised minimally at the level of an individual, the good derived from the freedom is for humankind at large.

Mill enumerates four reasons in favour of the freedom of expression. They are—

- (a) If an opinion is suppressed as against the prevailing notion and the suppressed opinion is right, then humankind stands deprived of its benefit. And, even if it is the prevailing notion that is right, suppression of the 'wrong' deprives humankind of the opportunity to reinforce what is right. So, to facilitate the expression of opinions, true or false, that are against the prevailing notions in society, freedom of expression is needed.
- (b) In the field of social and political belief, truth rather than being of one view or the other, emerges from the conflict of two or more opposing views. It is only freedom of expression that facilitates the airing out of several views.
- (c) Freedom of expression can throw up right views as well as wrong. But even views that are wrong or false should not be suppressed as they may contain elements of truth. Such elements of truth may be lost to humankind if freedom of expression is not exercised.
- (d) Even prevailing views that are true and right need opposition to reinforce their truth and to prevent themselves from being frozen into inert clichés. Indeed, it is only by being exposed to contradictions that views become reliable guides for action.

According to Mill, it is the clash of views facilitated by the freedom of expression that provides the intellectual impetus for thought, discussion, and progress. Mill is convinced

that without such freedom society finds itself enfeebled by dogma. Beliefs held by such a society degenerate into prejudices and opinions lack a rational foundation.

Individuality enables a human being to choose rather than blindly follow accepted modes of behaviour, customs, and practices. There is no pre-decided concept of the 'right' or 'wrong' way of life. The content of 'right' choices depends on the kind of person one is.

Mill defends the principle of individuality against governmental interference and social tyranny. The sphere of non-intervention in an individual's life is demarcated by drawing a distinction between self-regarding and other-regarding activities. Self-regarding actions are actions over which the individual is sovereign. Whether an action is other-regarding or is of concern to others depends on whether such action is harmful to others. Now, there can be several instances where the boundaries between self-regarding and other-regarding actions are quite blurred. For example, addiction of an individual to drugs is as much a self-regarding as an other-regarding issue. To counter this, some readings on Mill state that a self-regarding action cannot be viewed as other-regarding if it causes offence, it can be viewed so only if it causes injury. This exempts intervention in self-regarding action on grounds of moral beliefs as to the appropriate form of social behaviour.

## ■ Liberty: A Liberal Good?

It is often felt that liberty is a concomitant value of liberalism. As a multifaceted concept, the value of liberty or freedom is present in the writings of even those who are not considered liberals. Of the thinkers we have discussed so far, Rousseau is one such example. Yet another thinker is Karl Marx. Marx's understanding of liberty is through instances of what is not liberty.

Let us go back to our example—'I am free to choose my career'—to understand the way in which Marx perceives the absence of liberty. Let us be more specific—'I view myself as a writer and want to choose writing as my career.' Now, let us assume that due to lack of the right material existence conditions, in order to survive I have to work as a factory worker. To have a career as a writer would be to realize the writer in myself. My job as a factory worker disables me from relating to myself. In that sense, my own labour confronts my sense of self and alienates me.

According to Marx, what defines human nature is the ability to express creativity. The circumstances that create situations of inability of expression of self are those that deny liberty. Marx explains the denial of liberty, what he terms alienation, as a four-stage process. The agent is alienated from the product, from productive activity, one's own human nature and from other human beings. Marx explains this by saying, 'As a result, therefore, man (the worker) no longer feels himself to be freely active in any but his animal functions—eating, drinking, procreating or at most in his dwelling; and in his human functions he no longer feels himself to be anything but an animal.'

Marx's understanding of the term 'liberation' is leading a life of self-realization. Self realization can be defined as the full and free actualization and externalization of the powers and abilities of the individual. Marx held capitalism responsible for the lack of opportunities for self-realization. He also emphasized, however, that capitalism creates the material



bases for another society in which the full and free self-realization of each and every individual becomes possible.

Capitalism hinders self-realization in two ways. One, the formation of desires occurs through a process the individual does not understand and with which one does not identify. Often, one's own desires appear as alien powers, not as freely chosen. Two, the realization of desires is often frustrated by lack of coordination and common planning. The aggregate outcome of individual actions appears as an independent and even hostile power, not as freely and jointly willed. The non-identification with one's desires and confrontation of one's self by those desires is what he termed alienation.

## ■ CLASSIFICATION: NEGATIVE ■ AND POSITIVE LIBERTY

Let us have another look at the example—The BA class wants to have a free period. Now, the students of the class do know that this may mean that they may not cover their course before the exam. This will cost them their marks and affect their future career prospects. Nobody is forcing the class to miss the lecture. Yet, the temptation to have some free time stops the class from doing what it ought to do—attend the class. In this example, no one is stopping the students from bunking the class and in this sense the students in the class are free. On the other hand, if being free is being self-determined and entails control over temptations to take care of real interests, then the students of the class are not free.

It is to explain this distinction that the concept of liberty was classified in 1969 as negative liberty and positive liberty by Isaiah Berlin in his celebrated work—*Two Concepts of Liberty*.

### ■ Negative Liberty

The term 'negative' in negative liberty indicates injunctions that prohibit acts that restrict freedom. Popularly understood as freedom from interference, the scope of negative liberty is the answer to the question 'Over what area am I master?' (Berlin 1969: 121–22). Berlin further states, 'If I am prevented by others from doing what I could otherwise do, I am to that degree unfree: and if this area is contracted by other men beyond a certain minimum, I can be described as being coerced, or, it may be, enslaved' (Berlin 1969: 121–22). For example, if an individual who is otherwise qualified to contest elections is prevented by others from doing so by the use of coercion, the liberty of the potential candidate is being infringed. Berlin, however, makes it clear that incapacity to attain a goal is not unfreedom. As he states, 'only restrictions imposed by other people affect my freedom'.

Negative liberty rests on two main axioms—

- (a) Each one knows one's own interest best. This is based on the assumption of the individual as a rational agent with a capacity to deliberate and make an informed choice.

- (b) The state has a limited role to play. This follows from the earlier axiom: with the individual agency foregrounded, the state cannot decide ends and purposes for the individual.

For Berlin (1969), negative liberty as freedom is the opportunity to act, not action itself. As ‘opportunity concept of freedom’ it focuses on the availability rather than exercise of opportunity. The central problem with the negative concept of liberty is its indifference to the quality of action. For example, it makes no distinction between being liberated to pursue the occupation of one’s choice and the liberty to starve. Indeed, poverty is not always seen as an infringement of freedom in negative liberty.

Two thinkers who illustrate negative liberty in their writings are Frederick Hayek and Robert Nozick. Hayek views liberty as a negative concept, because ‘it describes the absence of a particular obstacle—coercion by other men’, and it becomes positive only through what we make of it. This is complimented by Hayek’s definition of individual freedom as ‘the state in which a man is not subject to coercion by the arbitrary will of another’. Hayek does not view negative liberty as exhaustive of the concept of freedom as he postulates a necessary connection between liberty, justice and welfare. He explains this by stating that ‘the conception of freedom under the law rests on the contention that when we obey laws, in the sense of general abstract rules irrespective of their application to us, we are not subject to another man’s will and are therefore free’.

In Nozick’s conception, the primary threat to liberty is the imposition of obligations to which one has not consented. Liberty is to be safeguarded by keeping such obligations to a minimum, leaving the greatest possible scope for voluntary agreements and exchange. The idea that respect for individual liberty requires consent is a necessary condition for all obligations beyond the requirements of a minimal framework of rights.

## ■ Positive Liberty

The concept of positive liberty proceeds with the idea that each self has a higher self and a lower self. The higher self, the rational self, should attain mastery over the lower self for an individual or a people to be liberated in the understanding of positive liberty. As Berlin (1969) states, ‘The positive sense of the word ‘liberty’ derives from the wish on the part of the individual to be his own master.... I wish to be the instrument of my own, not of other men’s acts of will.... I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for his choices and able to explain them by reference to his own ideas and purposes’. It does not just refer to non-interference, but includes the idea of self-mastery where the higher self is in command of the lower self.

Positive liberty is the *freedom to do*. It is what can be called the ‘exercise concept of freedom’. It is exercising and availing of the opportunities while negative freedom is just having opportunities. Unlike negative liberty, positive liberty is open to the idea of directing the individual either by law or an elite. As long as the law directs the individual towards rational ends, it liberates rather than oppresses the individual’s personality. Rousseau is a

votary of positive liberty when he states that true liberty is in obedience to moral law. He also refers to it as the function of the will of the enlightened people. From a neo-Marxist perspective, Herbert Marcuse also favours a positive conception of liberty. The reason given is that the working class is incapable of seeing its true end and needs to be directed towards liberation by the revolutionary elite.

Positive liberty also includes the idea of collective control over common life. Maintaining a pollution-free environment is a collective effort for the common benefit. While this may allow a certain degree of coercion, it is usually justified by the larger good involved.

Many liberals, including Berlin, have suggested that the positive concept of liberty carries with it a danger of authoritarianism. Consider the fate of a permanent and oppressed minority. Because the members of this minority participate in a democratic process characterized by majority rule, they might be said to be free on the grounds that they are members of a society exercising self-control over its own affairs. But they are oppressed, and so are surely unfree.

### ■ J. S. Mill and Negative and Positive Liberty

Mill, often viewed as a defender of the negative concept of freedom, compared the development of an individual to that of a plant: individuals, like plants, must be allowed to grow, in the sense of developing their own faculties to the full and according to their own inner logic. Personal growth is something that cannot be imposed from without, but must come from within the individual.

Critics, however, have objected that the ideal described by Mill looks much more like a positive concept of liberty than a negative one. Positive liberty consists, they say, in exactly this growth of the individual: the free individual is one that develops, determines and changes her own desires and interests autonomously, and from within. This is not liberty as the mere absence of obstacles, but liberty as self-realization.

While the emphasis on non-intervention in the life of the individual tends to classify Mill as a theorist of negative liberty, the defence of individuality to facilitate deliberate cultivation of certain desirable attitudes, does not preclude the possibility of understanding Mill as a theorist of positive liberty.

### ■ Insufficiency of Negative Liberty: Charles Taylor

While Mill does not limit himself to the negative concept of liberty and Berlin discusses the role of positive liberty as self-mastery that complements the view of negative liberty as non-interference, Charles Taylor points out why negative liberty may be a necessary prerequisite but not a sufficient condition for freedom. Taylor discusses the two types of liberty as the opportunity concept of freedom (negative liberty) and as the exercise concept of freedom (positive liberty). For Taylor, the concept of freedom is inclusive of the concept of self-realization. This notion of self-realization is unique to each individual and can only be worked out independently. Taylor feels that a pure opportunity concept of freedom is

inadequate to attain freedom inclusive of self-realization. As Taylor states, 'We can't say that someone is free, on a self-realization view, if he is totally unrealized.' For example, if you have the potential to sing well, to the extent that nobody goes out of the way to deny you opportunities, your sphere of negative liberty has not been violated. However, you are not liberated till you don't exercise the freedom to realize your potential as a singer.

This exercise of freedom is further qualified. Merely exercising freedom does not lead to the attainment of self-realization. There are certain conditions put on one's motivation to qualify the exercise concept of freedom as a quest for the attainment of self-realization. One is not free if one is motivated 'through fear, inauthentically internalized standards, or false consciousness'. So, if you exercise your potential to be a good singer because somebody coerces you, or you think it will elevate your social standing or you think of it as a way to be popular among friends, then the quest for self-realization is a motivated one. Taylor also states that the subject cannot be the final authority on whether one's desires are authentic. This is because others may know us better than we know ourselves.

On the one hand, one has to be cautious that the quest for self-realization, even if decided by the subject, is not motivated by fear or false consciousness. On the other hand, since the subject is vulnerable to having her/his quest for self-realization motivated, the question arises as to who decides the authenticity of the quest for self-realization. One way out is the Rousseauan way, where the 'right' path helps in the realization of one's higher self. This, however, can have authoritarian, totalitarian implications. For, if the subject is to realize a good that is pre-decided by someone other than her/him as consonant with one's higher nature, it is an anachronistic situation in which the subject needs to relinquish the freedom to make an independent judgement of the 'right' path to attain freedom.

Taylor acknowledges that the concept of positive liberty, understood in the Rousseauan framework is prone to totalitarian manipulation. However, according to him, the quest for self-realization need not be subject to totalitarian manipulation. The reason given by him is that since each person has his/her original form of realization, nobody can possess a doctrine or a technique to manipulate with a totalitarian intention as such a doctrine or a technique cannot in principle exist if human beings really differ in their self-realization.

## ■ Liberty: Freedom as a Triadic Relation

As Gerald MacCallum (1967) pointed out, there is no simple dichotomy between positive and negative liberty; rather, we should recognize that there is a whole range of possible interpretations or 'conceptions' of the single concept of liberty. He explains liberty as a triadic relationship in the following manner—X is free from Y to do or become (or not to do or become) Z. According to MacCallum—a subject, or agent, is free from certain constraints, or preventing conditions, to do or become certain things. Freedom is, therefore, a triadic relation—that is, a relation between *three things*: an agent, certain preventing conditions, and certain doings or becomings of the agent. Any statement about freedom or unfreedom can be translated into a statement of the above form by specifying *what* is free or unfree, *from what* it is free or unfree, and *what* it is free or unfree *to do or become*. Any claim about the presence or

absence of freedom in a given situation will, therefore, make certain assumptions about what counts as an agent, what counts as a constraint or limitation on freedom, and what counts as a purpose that the agent can be described as either free or unfree to carry out.

Indeed, as MacCallum says, a number of classic authors cannot be placed unequivocally in one or the other of the two camps. Locke, for example, is normally thought of as the father of classical liberalism and, therefore, a staunch defender of the negative concept of freedom. He, indeed, states explicitly that '[to be at] liberty is to be free from restraint and violence from others'. But he also says that liberty is not to be confused with 'licence' and can be exercised only within a moral framework (Locke 1988: paras 6, 57). Locke also seems to endorse an account of MacCallum's third freedom-variable (Z) that Berlin would call positive, restricting this to actions that are not immoral (liberty is not licence) and to those that are in the agent's own interests (I am not unfree if prevented from falling into a bog).

## ■ LIBERTY AND OTHER CONCEPTS ■

### ■ Liberty and Equality

The concepts of liberty and equality conflict or complement each other depending on how they are defined. The most common reason for the conflict is scarcity of resources and the nature of its distribution. To understand the nature of conflicts between equality and liberty, let us start with an example. Let us take the example of a family with meagre resources to be divided between the education of two siblings, one of whom wants to become a doctor and another an engineer—arguably both incur fairly high expenses. Either the family can divide the resources in an equal way between the two siblings or allow one of them to pursue her/his vocation of choice. However the resources are divided, the values of equality and liberty end up in a relation of conflict.

Liberty and equality conflict with each other when equality is understood as equality of outcome, and liberty is understood as freedom to choose. Equality as equality of outcome tends to work as a levelling mechanism. This consequently reduces the freedom of choice by restricting the availability of outcome. In the above example, if the resources are divided into two equal halves, what is achieved is an equal outcome with both siblings having the same amount of resources. This equality is, however, accompanied by the fact that neither can pursue the vocation of their choice. The stress on equality of outcome, thus, is at the cost of the liberty to choose.

Liberty and equality also tend to conflict with each other when either concept is equated with fairness. A fair state of affairs is however very subjective. Any state of affairs can be fair if some arbitrarily believe it to be fair and vice versa. In the example discussed above, giving all the resources to one of the siblings can be seen as fair to the extent that at least one of them can exercise the freedom of choice. The same situation can also be seen as unfair as the other sibling is totally deprived of any share of resources. An equal division between both the siblings, too, can be arbitrarily described as fair (as neither is totally deprived of her/his share) as well as unfair (neither is now capable of pursuing the vocation of their choice).

Equality and liberty can also conflict with each other when the practice of one is at the cost of the other. The extent to which liberty is attained can be gauged by the extent to which a trade-off has taken place with the concept of equality and vice versa. Again, going back to the example above, the liberty of any one sibling to pursue the vocation of her/his choice is in proportion to the extent of equality that is violated by the other sibling's equal share of resources. The liberty of each sibling is violated to the extent that the equal division of resources has limited their choice.

John Rawls, a social contract theorist of the 20th century, attempted to reconcile the values of liberty and equality through his 'veil of ignorance' argument. The motive behind this was as much to secure the inviolability of liberty as welfarist and redistributivist ideals of equality.

Rawls developed a scheme of basic liberties in his work, *A Theory of Justice*. The basic liberties are those that free and equal persons with the relevant moral capacities would choose in what he calls the 'original position'. This original position is a position where individuals divide liberties and resources in society without knowing their placement in society (see the chapter on Justice). According to Rawls, these basic liberties consist in freedom of thought and liberty of conscience; the political liberties and freedom of association, as well as the freedoms specified by the liberty and integrity of the person; and finally, the rights and liberties covered by the rule of law. To resolve conflict between various liberties, Rawls suggests that the institutional rules that define these liberties must be adjusted so that they fit into a coherent scheme of liberties. This scheme is secured equally for all citizens. In the Rawlsian scheme, redistribution of resources to bring about equality is qualified by two conditions—that the basic liberties will not be infringed upon and that increase of resources at any level should not be at the cost of the worst-off person.

**Equality and Liberty: A Complementary Relation?** A complementary relation between equality and liberty also depends on the way they are defined. To examine the possibility of a complementary relation liberty can be understood as being in control of one's life. This implies three things—

- (a) Leading one's life according to one's beliefs, desires and purposes
- (b) Being able to examine and revise them
- (c) Being able to pursue alternative paths

Equality can be understood as non-discrimination. As non-discrimination, it entails elimination of disadvantages of those who suffer from them, yet are not responsible for them. It entails protection of essential interests that are harmed by such disadvantages. Without an equal opportunity to be liberated, neither equality nor liberty can attain its purpose in totality.

Equality accompanies the concept of liberty in the view of most thinkers. For Locke, natural rights (inclusive of liberty) are regulated by natural law characterized by equality. For Rawls, any method of distribution of liberties or social resources has to conform to the norm of equality.

## ■ Liberty and Rights

While there is a strand in Western political thought that equates the concept of right with the concept of liberty (Hobbes, Locke, Nozick), contemporary theory is of the opinion that they are two distinct concepts. The traditional view understood the equation between the two concepts as the idea of having a right to do or be something is the same as the freedom to do or be something. Later, it was felt that while liberty cannot be equated with the concept of right, a right is a liberty in a restricted sense—a liberty that is protected, recognized or allowed by the law (Holmes 1881; Lamont 1946).

The concept of liberty differs with the concept of right in at least three ways.

- (a) There can only be a right to something, whereas freedom can be freedom to, as well as, freedom from. One does not have a right from something (this is distinct from a right not to do or be something).
- (b) There are degrees of freedom, but not of rights. One can be more or less free, but one cannot have more or less of a right.
- (c) Liberty cannot be delegated, transferred or waived unlike a right.

In contemporary theory, Dworkin admits that the concept of liberty can be related to a concept of right in a weak sense. As he explains, someone has a right to liberty if s/he either wants it or if it is good for her/him to have it. But a right to liberty cannot be always sustained in a stronger sense of right. As in, if someone has a right to something, then it is wrong for the government to deny it to her/him even though it would be in the general interest to do so.

## ■ THE CONCEPT OF LIBERTY IN INDIA ■

The term closest to liberty in the Indian tradition is *mukti*; its connotations, however, are entirely other-worldly. Understood either as renunciation or as deliverance from the chain of rebirths, the initial understanding of *mukti* did not refer to freedom from social restrictions.

Ideas of modern liberty entered colonial India through three different routes—colonial legal arrangements accompanied by tacit understandings of rights and freedoms of individuals, institutional spread of Western-style education, and intellectual influence of Western social thinking. With the rise of the middle class and spread of non-ancestral salaried jobs, freedom began to be expressed in an individualistic manner. Women were elevated from their hierarchically subordinate position in the joint family to that of a companion. Freedom was also expressed in the religious sphere through the formation of associations. Voluntary associations were also formed for the establishment of educational projects, advancement of women, sports clubs, etc. However, opportunities to form and enter these associations were limited to the upper-caste elites. Two pioneers of freedom from social restrictions in India—Rabindranath Tagore and Raja Rammohun Roy—were a part of this elite.

In western India, unlike Bengal, thinkers from lower-caste groups began to use ideas of social freedom to attack caste hierarchy, notably Jyotiba Phule and later, B. R. Ambedkar.

The meaning of freedom came to be located in the everyday life of caste indignities. Freedom had two aspects to it—liberation of lower castes from upper-caste domination, and affirmative action with regard to jobs in the colonial administration. This strand remained in a state of potential conflict with the nationalist strand—freedom from colonial rule. By the first decade of the 20th century, the meaning of freedom came to be dominated by the idea of freedom from colonial rule.

Both the strands of freedom found a place in the views of Gandhi. Gandhi adopted the term ‘*swaraj*’ as an analogue to the concept of freedom. The very term *swaraj* carries with it the two main components that it embodies—*swa* as in ‘self’ and *raj* as in ‘rule’ and can be understood as ‘self-rule’ in two senses—‘rule of self’ and ‘rule over self’. Gandhi understood and sought to apply freedom as *swaraj* in both senses of the term. *Swaraj*, in the context of the freedom struggle in India, referred to freedom as a constitutional and political demand, and as a value at the social-collective level. It meant not just freedom from British rule, but also freedom from the cultural authority of the West.

It is the understanding of *swaraj* as ‘rule over self’ that was highlighted by Gandhi in his work *Hind Swaraj*, where he states, ‘It is *swaraj* when we learn to rule ourselves’. *Swaraj*, in this understanding, is about redeeming one’s self-respect, self-responsibility, and capacities for self-realization from institutions of dehumanization. Understanding the real ‘self’, and its relation to communities and society, is critical to the project of attaining *swaraj*. Such an understanding of *swaraj* advocated that people must continuously strive to create a different set of institutions, structures and processes consistent with diverse cultures, traditions as well as principles of the natural world. Gandhi believed that the development that follows would liberate both individual and collective potentialities guided by the principle of justice.

## ■ Liberty and the Indian Constitution

The Indian Constitution discusses liberty in Part III of the document under Fundamental Rights. These rights are primarily in the form of negative injunctions rather than positive directions to the state. While the rights are fundamental, they are not absolute. Liberty as a principle, is protected not just by the right to freedom and the right to personal liberty, but also by the Directive Principles of State Policy.

While Article 19 of Part III of the Constitution—Right to Freedom—enumerates the various freedoms, Article 21 defines the scope of the liberty principle.

Article 21—worded in the following manner: *No person shall be deprived of his life or personal liberty except according to procedure established by law*—is the only article in the entire gamut of Fundamental Rights that does not have exceptions or qualifications to its application. In fact, one need not even be a citizen of India to invoke Article 21. In not demanding the criterion of citizenship, the Indian Constitution has elevated the right to life and personal liberty to the status of a human right.

**Judiciary in India and Article 21** Statutes do not cover every conceivable case, and even when a statute does control a case, the courts may need to interpret it. Judicial decisions are



known collectively as case law. A judicial decision legally binds the parties in the case, and may also serve as a law in the same prospective sense as does a statute. In other words, a judicial decision determines the outcome of the particular case, and also may regulate the future conduct of all persons within the jurisdiction of the court.

It is instructive to note the way courts in India have understood and applied the concept of liberty. Its multifaceted aspects as mirrored in the application of law facilitate the structure of reality and prevent liberty from being restricted to the abstract realm. The Indian judiciary is replete with instances of case law on the concept of liberty. Through its judgments and observations it has substantially contributed to the expansion of the right to life and personal liberty. The four instances cited below indicate the role of judicial decisions in the expansion of the scope of liberty.

The judiciary initially restricted itself to limiting the concept of liberty to tangible constraints. The Supreme Court in 1963 in the *Kharak Singh* case pointed out, that ‘in dealing with a fundamental right such as the right to free movement and personal liberty, that only can constitute an infringement which is both direct as well as tangible and it could not be that the constitution makers intended to protect or protected mere personal sensitiveness’.

A far more expansive understanding of liberty was visible in 1981 when a Supreme Court judge observed (*Francis Coralie Mullin v. Administrator, Union Territory of Delhi*) that

the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling (*sic*) with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self.

The expansive understanding was further reiterated in 1984 in the *Bandhua Mukti Morcha* case—the scope of Article 21 was broadened by drawing on the Directive Principles of State Policy. The judgement noted—

This right to live with human dignity (as) enshrined in Article 21 ... must include protection of the health and strength of workers ... of tender age of children against abuse, opportunities and facilities ... to develop in a healthy manner ... in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief.

A holistic interpretation of Article 21 was put forward in 1989 (*Ramsharan v. Union of India*) where it was held that ‘all that gives meaning to a man’s life including his tradition, culture and heritage, and protection of that heritage in its full measure would certainly come within the encompass of an expanded concept of Article 21 of the Constitution’. In a 1991 judgement, the Supreme Court went on to include ‘the right of enjoyment of pollution-free water and air for full enjoyment of life’ under Article 21.

## Points for Discussion

1. Peer pressure often colours our preferences on many issues ranging from consumer brands to career choices. To what extent do we exercise our liberty as freedom in making choices?
2. Liberty loses its meaning as well as legitimacy when viewed outside the civil and political system. Do you think unquestioned obedience to law will ensure the right to enjoy liberty?
3. According to Marx, capitalism hinders self-realization. Which ideology do you think best ensures the right to liberty as self-realization?
4. In 1996, the renowned painter M. F. Husain portrayed goddess Saraswati in the nude. Again, in 2000, the film director Deepa Mehta tried to shoot *Water*, a film on the plight of Hindu widows, in Kashi. In both cases, conservative elements went on a rampage, and declared these efforts as obscene, as against Indian culture and ethos. How would you discuss these incidents against the reasons enumerated by Mill under the freedom of expression?
5. It is necessary to speak against and resist the practice of dowry. Can you apply Mill's views on the freedom of expression, individuality, and limits on social coercion to this instance? Would Mill be regarded as a theorist of positive or negative liberty?
6. Can you see a correlation between the judgement of the judiciary in India and the manner in which the concept of liberty evolved in political theory?

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