

Excerpts on Positive vs. Negative Liberty

Isaiah Berlin, Booker T. Washington, Alan Goldman, G.A. Cohen, F.A. Hayek, & John Rawls

TWO CONCEPTS OF LIBERTY

by Isaiah Berlin (1958)

To coerce a man is to deprive him of freedom - freedom from what? Almost every moralist in human history has praised freedom. Like happiness and goodness, like nature and reality, it is a term whose meaning is so porous that there is little interpretation that it seems able to resist. I do not propose to discuss either the history of this protean word or the more than two hundred senses of it recorded by historians of ideas. I propose to examine no more than two of these senses - but they are central ones ...

I. The notion of negative freedom.

I am normally said to be free to the degree to which no man or body of men interferes with my activity. Political liberty in this sense is simply the area within which a man can act unobstructed by others. 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. Coercion is not, however, a term that covers every form of inability. If I say that I am unable to jump more than ten feet in the air, or cannot read because I am blind, or cannot understand the darker pages of Hegel, it would be eccentric to say that I am to that degree enslaved or coerced. Coercion implies the deliberate interference of other human beings within the area in which I could otherwise act. You lack political liberty or freedom only if you are prevented from attaining a goal by human beings. Mere incapacity to attain a goal is not lack of political freedom. This is brought out by the use of such modern expressions as 'economic freedom' and its counterpart, 'economic slavery'. It is argued, very plausibly, that if a man is too poor to afford something on which there is no legal ban - a loaf of bread, a journey round the world, recourse to the law courts - he is as little free to have it as he would be if it were forbidden him by law. If my poverty were a kind of disease which prevented me from buying bread, or paying for the journey round the world or getting my case heard, as lameness prevents me from running, this inability would not naturally be described as a lack of freedom, least of all political freedom. ... The nature of things does not madden us, only ill will does, said Rousseau. The criterion of oppression is the part that I believe to be played by other human beings, directly or indirectly, with or without the intention of doing so, in frustrating my wishes. By being free in this sense I mean not being interfered with by others. The wider the area of non-interference the wider my freedom.

This is what the classical English political philosophers meant when they used this word. They disagreed about how wide the area could or should be. They supposed that it could not, as things were, be unlimited, because if it were, it would entail a state in which all men could boundlessly interfere with all other men; and this kind of 'natural' freedom would lead to social chaos in which men's minimum needs would not be satisfied; or else the liberties of the weak would be suppressed by the strong. Because they perceived that human purposes and activities do not automatically harmonize with one another, and because (whatever their official doctrines) they put high value on other goals, such as justice, or happiness, or culture, or security, or varying degrees of equality, they were prepared to curtail freedom in the interests of other values and, indeed, of freedom itself. For, without this, it was impossible to create the kind of association that they thought desirable. Consequently, it is assumed by these thinkers that the area of men's free action must be limited by law. But equally it is assumed, especially by such libertarians as Locke and Mill in England, and Constant and Tocqueville in France, that there ought to exist a certain minimum area of personal freedom which must on no account be violated; for if it is overstepped, the individual will find himself in an area too narrow for even that minimum development of his natural faculties which alone makes it possible to pursue, and even to conceive, the various ends which men hold good or right or sacred. It follows that a frontier must be drawn between the area of private life and that of public authority. Where it is to be drawn is a matter of argument, indeed of haggling. Men are largely interdependent, and no man's activity is so completely private as never to obstruct the lives of others in any way. 'Freedom for the pike is death for the minnows'; the liberty of some must depend on the restraint of others. ...

What troubles the consciences of Western liberals is, I think, the belief, not that the freedom that men seek differs according to their social or economic conditions, but that the minority who possess it have gained it by exploiting, or, at least, averting their gaze from, the vast majority who do not. They believe, with good reason, that if individual liberty is an ultimate end for human beings, none should be deprived of it by others; least of all that some should enjoy it at the expense of others. ...

If the liberty of myself or my class or nation depends on the misery of a number of other human beings, the system which promotes this is unjust and immoral. ...

Jefferson, Burke, Paine, Mill compiled different catalogues of individual liberties, but the argument for keeping authority at bay is always substantially the same. We must preserve a minimum area of personal freedom if we are not to 'degrade or deny our nature'. We cannot remain absolutely free, and must give up some of our liberty to preserve the rest. But total self-surrender is self-defeating. What then must the minimum be?

That which a man cannot give up without offending against the essence of his human nature. What is this essence? What are the standards which it entails? This has been, and perhaps always will be, a matter of infinite debate. But whatever the principle in terms of which the area of non-interference is to be drawn, whether it is that of natural law or natural rights, or of utility, or the pronouncements of a categorical imperative, or the sanctity of the social contract, or any other concept with which men have sought to clarify and justify their convictions, liberty in this sense means liberty *from*, absence of interference beyond the shifting, but always recognisable, frontier. ... Since justice demands that all individuals be entitled to a minimum of freedom, all other individuals were of necessity to be restrained, if need be by force, from depriving anyone of it. Indeed, the whole function of law was the prevention of just such collisions: the State was reduced to what Lassalle contemptuously described as the functions of a night-watchman or traffic policeman.

What made the protection of individual liberty so sacred to Mill? In his famous essay he declares that, unless the individual is left to live as he wishes in 'the part [of his conduct] which merely concerns himself', civilisation cannot advance; the truth will not, for lack of a free market in ideas, come to light; there will be no scope for spontaneity, originality, genius, for mental energy, for moral courage. Society will be crushed by the weight of 'collective mediocrity'. Whatever is rich and diversified will be crushed by the weight of custom, by men's constant tendency to conformity, which breeds only 'withered' capacities, 'pinched and hidebound', 'cramped and dwarfed' human beings. 'Pagan self-assertion' is as worthy as 'Christian self-denial'. 'All errors which [a man] is likely to commit against advice and warning, are far outweighed by the evil of allowing others to constrain him to what they deem his good.' ...

The desire to be governed by myself, or at any rate to participate in the process by which my life is to be controlled, may be as deep a wish as that for a free area for action, and perhaps historically older. But it is not a desire for the same thing. So different is it, indeed, as to have led in the end to the great clash of ideologies that dominates our world. For it is this, the 'positive' conception of liberty, not freedom from, but freedom to – to lead one prescribed form of life – which the adherents of the 'negative' notion represent as being, at times, no better than a specious disguise for brutal tyranny.

II. The notion of positive freedom.

The 'positive' sense of the word 'liberty' derives from the wish on the part of the individual to be his own master. I wish my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men's, acts of will. I wish to be a subject,

not an object; to be moved by reasons, by conscious purposes, which are my own, not by causes which affect me, as it were, from outside. I wish 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 I were a thing, or an animal, or a slave incapable of playing a human role, that is, of conceiving goals and policies of my own and realising them. This is at least part of what I mean when I say that I am rational, and that it is my reason that distinguishes me as a human being from the rest of the world. I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices and able to explain them by reference to my own ideas and purposes. I feel free to the degree that I believe this to be true, and enslaved to the degree that I am made to realise that it is not.

The freedom which consists in being one's own master, and the freedom which consists in not being prevented from choosing as I do by other men, may, on the face of it, seem concepts at no great logical distance from each other – no more than negative and positive ways of saying much the same thing. Yet the 'positive' and 'negative' notions of freedom historically developed in divergent directions, not always by logically reputable steps, until, in the end, they came into direct conflict with each other. ...

III. The retreat to the inner citadel.

I am the possessor of reason and will; I conceive ends and I desire to pursue them; but if I am prevented from attaining them I no longer feel master of the situation. I may be prevented by the laws of nature, or by accidents, or the activities of men, or the effect, often undesigned, of human institutions. These forces may be too much for me. What am I to do to avoid being crushed by them? ...

I am free only to the degree to which my person is 'fettered' by nothing that obeys forces over which I have no control. ...

'He is truly free', said Rousseau, 'who desires what he can perform, and does what he desires.' In a world where a man seeking happiness or justice or freedom (in whatever sense) can do little, because he finds too many avenues of action blocked to him, the temptation to withdraw into himself may become irresistible. ...

THE DAY OF FREEDOM

from Booker T. Washington, *Up From Slavery* (1901)

... As the great day drew nearer, there was more singing in the slave quarters than usual. It was bolder, had more ring, and lasted later into the night. Most of the verses of the plantation songs had some reference to freedom. True, they had sung those same verses before, but they had been careful to explain that the "freedom" in these songs referred to the next world, and had no connection with life in this world. Now they gradually threw off the mask, and were not afraid to let it be known that the "freedom" in their songs meant freedom of the body in this world. ...

... Finally the war closed, and the day of freedom came. ...

The most distinct thing that I now recall in connection with the scene was that some man who seemed to be a stranger (a United States officer, I presume) made a little speech and then read a rather long paper – the Emancipation Proclamation, I think. After the reading we were told that we were all free, and could go when and where we pleased. My mother, who was standing by my side, leaned over and kissed her children, while tears of joy ran down her cheeks. She explained to us what it all meant, that this was the day for which she had been so long praying, but fearing that she would never live to see.

For some minutes there was great rejoicing, and thanksgiving, and wild scenes of ecstasy. ... The wild rejoicing on the part of the emancipated coloured people lasted but for a brief period, for I noticed that by the time they returned to their cabins there was a change in their feelings. The great responsibility of being free, of having charge of themselves, of having to think and plan for themselves and their children, seemed to take possession of them. It was very much like suddenly turning a youth of ten or twelve years out into the world to provide for himself. In a few hours the great questions with which the Anglo-Saxon race had been grappling for centuries had been thrown upon these people to be solved. These were the questions of a home, a living, the rearing of children, education, citizenship, and the establishment and support of churches. Was it any wonder that within a few hours the wild rejoicing ceased and a feeling of deep gloom seemed to pervade the slave quarters? To some it seemed that, now that they were in actual possession of it, freedom was a more serious thing than they had expected to find it. Some of the slaves were seventy or eighty years old; their best days were gone. They had no strength with which to earn a living in a strange place and among strange people, even if they had been sure where to find a new place of abode. To this class the problem seemed especially hard. ... [M]any of the older slaves, especially, returned to their old homes and made some kind of contract with their former owners by which they remained on the estate. ...

As I write the closing words of this autobiography I find myself – not by design – in the city of Richmond, Virginia: the city which only a few decades ago was the capital of the Southern Confederacy, and where, about twenty-five years ago, because of my poverty I slept night after night under a sidewalk. ...

During the whole of the Reconstruction period our people throughout the South looked to the Federal Government for everything, very much as a child looks to its mother. This was not unnatural. The central government gave them freedom, and the whole Nation had been enriched for more than two centuries by the labour of the Negro. Even as a youth, and later in manhood, I had the feeling that it was cruelly wrong in the central government, at the beginning of our freedom, to fail to make some provision for the general education of our people in addition to what the states might do, so that the people would be the better prepared for the duties of citizenship. ... [A]s I look back now over the entire period of our freedom, I cannot help feeling that it would have been wiser if some plan could have been put in operation which would have made the possession of a certain amount of education or property, or both, a test for the exercise of the franchise, and a way provided by which this test should be made to apply honestly and squarely to both the white and black races. ...

THE ENTITLEMENT THEORY OF DISTRIBUTIVE JUSTICE

by Alan Goldman (1976)

According to Robert Nozick, a social distribution is just if it is arrived at through legitimate acquisitions and transfers. Original acquisitions of property will be just if they violate no rights of others, e.g., if the goods are not already owned or claimed and if their appropriation does not leave others in a worse position (other than simply more limited opportunities to appropriate). Thereafter transfers are legitimate when voluntary. We are to measure the legitimacy of a distribution only according to how it came about, i.e., whether property to which owners were entitled was freely transferred or exchanged without violation of rights. Such historical principles are held incompatible in application with what Nozick appropriately terms end-state principles, principles that aim at some favored pattern of distribution like equality, maximization of average or mean utility, or the difference principle, since legitimate acquisitions and transfers are unlikely to result in any fixed pattern. If a fixed pattern were accidentally and momentarily achieved, it would immediately be upset by further free exchange, e.g., paying for entertainment when entertainers already have more than allowable under any likely end-state principle. What Nozick clearly has in mind as an embodiment of his just historical principles is the operation of free market exchange, without state controls (other than enforcement of contracts) or forced redistribution. All end-state principles imply that persons can have claims on others' property, but this contradicts the better-entrenched historical principles which imply that persons are entitled to what they acquire through free exchanges.

Why do our moral intuitions rebel at such unhindered operation of a free market economy as sole distributor of advantages? Have we come so far from it only through bureaucratic power-seeking or misguided good intentions? The deepest moral problem with such operation is that it allows or rather forces some to start in life with nothing but economic handicaps and prospects of misery and deprivation, through injustices done to their ancestors or perhaps simply through their stupidity. These factors may be impossible to separate in practice, but in any case we cannot see why children should be held responsible for the sins or omissions of their ancestors, or why they must remain almost inevitably locked within material and cultural deprivation because of their initial environments. Our intuition is that no system could be just which would allow this to an even greater extent than occurs in our present somewhat redistributive society; nor, as I will show, do Nozick's arguments force us from this initial reaction. ...

The justification of rules of entitlement themselves is relative to some more general conception of good or right which underlies them and, in application, to other moral rules embodying a system of values. It seems that, if principles of free acquisition and transfer are indeed to take precedence

over all other claims on material property, it must be because we place a higher value on freedom than upon other goods like life (is this possible?), equality, or welfare, and because free exchange alone recognizes a maximum freedom of action for individuals. Nozick, however, objects to talk of maximization of any good as the goal of moral theory, and points out that his is not a maximization-of-freedom theory as utilitarianism is a maximization-of-welfare theory. We are not, for example, permitted to violate the rights of an individual in order to maximize the rights or freedom of others. ...

As pointed out above, we want to say that (1) people are entitled to what they earn through socially productive efforts, and also that (2) they are entitled to spend their own earnings as they like. ... (2) seems to follow from (1). It follows from (2) that (3) if these people desire to give away their earnings, then those to whom they are given must be entitled to them. The problem with this is that we also want to say that (4) people are not entitled to socially contingent advantages they don't deserve, and (5) people often don't deserve the monetary advantages they are given, for example, by their parents as children. (4) and (5) are clearly incompatible with (3). The fact that an individual has a moral right to what he acquires through effort and has the consequent right to do with those earnings what he wants does not seem to make it less morally arbitrary that one child starts off with all advantages and another with none. ...

[Nozick] argues that attributing success to initial position denigrates the degree of effort and autonomous choice involved, amounting to an overly deterministic and pessimistic view of human nature. In fact, however, the empirical evidence seems to support such a claim, if we compare the percentage of those who succeed starting with all advantages versus those who succeed starting with economic and cultural deprivation. (We have not yet justified taxing the latter.) Initial advantage constitutes neither a necessary nor a sufficient condition for future success (I assume a barometer for success), but I will stake this much of the argument on the belief that in our present society (and certainly in the society Nozick envisages) it comes statistically close to amounting to both. (In any case why should those with initial disadvantages have to work harder for success?) Second, those who do succeed could feel more certain of this as a reflection of effort or worth, within a system with remedial institutions to make competition more stiff and fair. Such a system, rather than lowering these persons' dignity and sense of achievement, would ensure that their accomplishments were recognized as such rather than regarded as the results of undeserved good fortune. It is true that those who do not succeed within a fair system may feel worse with the recognition that this is non-accidental. But there are other indicators of worth besides monetary success or even social productivity, and in any case we are after fairness,

concerned with who is on top and who on bottom and why, not with minimizing the feelings of resentment of those who occupy the lower ranks.

Nozick has a further argument against redistributive taxation independent of these considerations ... He claims that such taxation is equivalent to forced labor—to take the results or earnings of someone's labor amounts to making him work a certain amount of time against his will purely for the benefit of others. This is to be equated with the doctrine that some persons (the beneficiaries of redistribution or the state) have property rights in others, and this seems clearly to violate the Kantian rights of those others not to be treated as means for the welfare of those who benefit. Nozick bolsters the argument further with examples of cases in which individuals have no right to make demands on the free activity of others even when their welfare depends upon such demands. Although Toscanini's orchestra members' welfare depended upon his continuing to conduct, they had no right to demand he not retire.

Once taxation is equated with forced labor, the argument seems to go through. But we must first question this equation more closely and, second, ask whether nonredistributive systems might not involve features plausibly construed as in violation of Kant's principle as well. There is certainly an initial distinction between what we usually picture as forced labor, e.g., chain gangs or Siberian work camps, and taxation even without consent. In the case of taxation a person is still free to work as long as he likes and at the job he chooses. He is simply required to contribute a percentage of earnings, presumably under a certain level of marginal utility to him, to those for whom it has a far greater marginal utility. Thus a demand on the conduct of Toscanini's life, for example, is far different from a demand on a marginal amount of his income.

Perhaps an equally damaging point is that differences in earnings are generally not a function of effort expended or hours worked. They are more often an indirect reflection of the initial undeserved advantages of that individual for obtaining that job. For this reason we can in no way equate redistributive taxation, which takes a portion of those extra earnings to provide for basic needs of those who lack such advantages, with making the individual work longer or harder for their benefit. Nor are the hours a person works very often a function of how much he wants to earn, so that if he doesn't earn as much as he needs in a given week he simply works longer to make up the difference. This may be true for those on the bottom of the economic scale whom redistribution benefits, but certainly almost never for those wealthy enough to lose through equitable social redistribution. Thus the equation of taxation for redistributive purposes with forced labor does not hold up in the face of all these disanalogies. ...

The other assumed side of Nozick's position requires closer scrutiny as well, the question whether an economic system supported partly by those whose wages do not allow decent living, while others are maintained by that system in soft jobs for the acquisition of which they had initial advantages, does not more clearly violate a faithful rendering of the injunction against using persons as means. The ability and freedom to frame a meaningful life plan for oneself, which Nozick sees as underlying the demand to respect the autonomy of the individual, is denied to those who lack conditions that render such plans practicable. But for him this question does not arise, since he views the system of free exchange as based, throughout on consent. Admittedly, the consent is often restricted— it may be a choice of working at a particular unpleasant low-paying job or starving. But Nozick points out that not all constraints on actions render them involuntary—the fact that I cannot choose to fly rather than walk to work does not render my choice of walking illusory. His criterion here is that restricted consent is not rendered involuntary unless those actions of others which constitute the restraints violate the rights of the person in question. My working as a professor when I would prefer to sing opera since other more competent baritones have been chosen for that profession still leaves my choice of profession voluntary (even if all other positions are taken?); my working as a professor under threats from avid students is not voluntary since my rights are violated in this case. But to use this criterion to justify a free market system in terms of consent is to beg the question of whether persons' rights are violated by that system.

The central question regarding the application of Kant's principle to the choice among rival social and economic systems is whether it violates the injunction against treating people as means to require or force certain individuals to help others in need by giving up some marginal amount of their earnings. It is clear that we do not violate the principle when we require that individuals not harm others or detract from their welfare in seeking their own satisfaction, and Nozick holds that the state violates no rights in enforcing this principle. Can the difference between the injunction not to harm others and the demand to help others in need be construed as so great that we violate the fundamental principle of morals in enforcing the second but follow it in enforcing the first? Nozick would presumably claim that the difference in the two cases is that, whereas it is moral to help others in need, no one can claim a right to be helped, and since people can claim rights to their property, we cannot enforce the demand to help in the name of justice—in fact to do so would be to violate the rights of property owners in treating them as means to others' welfare. ...

A case could be made ... that an economic system in which some prosper partly through the consumption and labor of those who, because of their initial positions (determined by the prior operation of the system), never have human needs filled, embodies rules that treat the latter individuals

merely as means. This is equivalent to the claim that such a system embodies rules that could not be willed universally to apply in all conditions or could not be willed by anyone with the possibility of role switches (from a Rawlsian initial position).

It might be replied again that ... not helping others in need is immoral, not that the needy have a right to be helped or that this is a question of justice in which the state has a right to interfere. This much could be answered by pointing out that if, when attempting to will universally (playing the role of legislator in a "kingdom of ends"), we place ourselves in the position of someone in need, we undoubtedly not only would want to be helped or to be answered favorably when begging for help, but would want to be able to demand help as a right so that the need for begging with its additional degradation would not arise. We would want not to await the beneficence of others as a hungry dog might do, but to be able to demand satisfaction of basic needs as a right of human beings in virtue of their worth or dignity. If the demand for satisfaction then becomes a right ... and if the state has the right to enforce rights or prevent their violation, then the state has the right of redistributive taxation, at least for this purpose.

But Nozick has a further two-step argument to show that need does not create a right to the property of others. He first points out that we do not recognize such rights outside a mutual social context—one Robinson Crusoe who is faring very badly does not have a claim to the fruits of another's labor even when the other man is prospering; nor do we recognize claims of all people in the world in need upon our property. The second step consists in a challenge to stipulate what social cooperation adds to this picture in order to create the rights in question. I admit with Nozick that the difference does not lie in the fact that assets somehow become collective when a society is formed, nor in the fact that those on top benefit from social cooperation (since those on bottom are perhaps also better off than Robinson Crusoe). Part of the answer here is that, whereas in the case of Robinson Crusoe differences between their conditions are due to differences in natural assets or labor expended, in the social context of a relatively free market economy, differences are often due to unequal starts determined only by the prior operation of the conventional system itself. If the system had been set up differently, then the differences would not now exist to the same degree; therefore the system is responsible for lessening their effects somewhat. ...

The freedom to transfer must be weighed against the great inequalities created by it precisely in the name of the moral equality and autonomy of all individuals, so that they may be autonomous and capable of realistically framing meaningful life plans. ...

Nozick has not succeeded in deriving a natural right to property, and admits difficulties in Locke's account. When such a right is determined within a social context by the choice of rules of acquisition and transfer, these will be relative to a balancing of moral values within the whole community. And if these are to be moral rules, they must be capable of being chosen by all from a position of equality, or capable of being willed by one who places himself in all possible conditions. ...

Given that under [a redistributive system] fewer will be in need and more will be able to formulate meaningful life plans, do we as members of a moral community or state have the right to interfere with the free activity (spending or saving) of some in order to realize this situation? Do we have a right to force it upon the wealthy? ... To refuse to violate the absolute freedom of those who fail to recognize the rights of others arising from basic needs, is to press the distinction between positive and negative duties to an irrational point. It amounts here to a refusal to assume responsibility for an unjust state of affairs when the means to alter it are known. Finally, the abridgment of freedom involved in redistributive taxation is no more a violation of rights than is that involved in the prohibition against stealing, given that the right to the satisfaction of basic needs in an affluent society is as basic as the right to property. ...

No reasonable theory would prevent a person from spending money to see Wilt Chamberlain play basketball (Nozick's example), even though Wilt already has more money than his fans. I have not ruled out allowing a person to spend all his money on watching basketball, and am inclined to say that he deserves to starve if he should do so. I question only whether his children deserve to starve as well, whether we are not justified in requiring Chamberlain to give back a portion of his earnings beyond material needs and wants (no more would be required for truly redistributive purposes) to prevent such tragic occurrences. ...

FREEDOM AND REDISTRIBUTIVE TAXATION

from G.A. Cohen, *Self-Ownership, Freedom, and Equality* (1995)

2b. A proponent of D1 [i.e., some preferred end-state principle of justice] might respond to the Chamberlain argument by proposing a tax on his earnings. ... Now, taxation for the sake of equality (or whatever D1 is) will often dampen productivity in a capitalist economy. But let us suppose, as might well be true in the Chamberlain case ... that such a tax would not act as a disincentive, so that we can focus on this distinct question: would the contemplated tax policy be unacceptable because it unjustifiably restricts freedom?

2c. Well, such a policy undoubtedly removes *certain* freedoms. With the taxing policy, Chamberlain loses the freedom to enter a contract under which he plays basketball and earned a cool quarter of a million, and the fans lose the freedom to enter a contract under which they each pay twenty-five cents and he gains the aforementioned sum. But the removal of *certain* freedoms can be in the interest of freedom itself, and before we conclude that a policy of taxing people like Chamberlain restricts freedom *tout court*, or restricts it unjustifiably, we must check to see whether its removal of *certain* freedoms might not promote other ones that also matter.

How much freedom I have depends on the number and nature of my options. And that in turn depends *both* on the rules of the game and on the assets of the players: it is a very important and widely neglected truth that it does not depend on the rules of the game alone.

Suppose that I am the sovereign of an island up on which, from time to time, marooned sailors are washed. At the moment, there is only one washed up sailor, sailor One, in residence. He has built himself a shelter, and by the rules I, the sovereign, have made, he is the owner of that shelter: he need not part with it, or let anyone else use it. Others will be entitled to use it only if he agrees to let them do so, perhaps for a consideration. And now a storm washes up a second sailor, sailor Two, who, battered by the storm, will probably die unless sailor One lets him shelter, temporarily, in his hut. Under the existing rules, sailor One can legitimately demand the life-long slavery of sailor Two in exchange for letting him shelter. The existing rules permit any kind of contract, including that extreme one, and the sailors' assets and motivations might ensure that that would be the contract that occurs. But, because I am a freedom-loving sovereign, I change the rules so that they forbid slave contracts. Now, we can suppose, sailor Two will get a better deal, under which he will enjoy more freedom. Precisely as a result of the prohibition that I laid down, he now has an option superior to slavery which was unavailable when the rules of contract were more permissive. **More permissive rules look unambiguously freedom-promoting only when all we look at is the rules and we ignore, unjustifiably, the asset**

distribution in which they operate. When a socialist society forbids capitalist acts between consenting adults, some of them will be freer than they otherwise would have been just because of that restriction on everyone's, and, therefore, on their own, freedom.

2d. Let me now relate the foregoing reflections on the less drastic case of Chamberlain and his fans. Taxing him pretty unequivocally reduces Chamberlain's freedom. ... But it is not at all obvious that preventing the fans from entering a contract whose proceeds will be free of tax reduces *their* freedom. For the prohibition creates an option which is otherwise unavailable to them, to wit, the option of paying twenty-five cents to see Wilt play *without* endowing a member of their society with enormous wealth, and at the same time regaining much of what they pay in benefits financed by a suitably constructed tax policy.

That casts doubt on whether the taxing policy, which removes certain freedoms, is, for all that, to be eschewed out of a respect for freedom. ...

Nozick presents himself as a defender of unqualified private property *and* as an unswerving opponent of all restrictions on individual freedom. I claim that he cannot coherently be both, if only because no one who is not an anarchist can be the second, and I now want to drive that point home. ...

The banal truth is that, if the state prevents me from doing something that I want to do, then it places a restriction on my freedom. Suppose, then, that I want to perform an action which involves a legally prohibited use of your property. I want, let us say, to pitch a tent in your large back garden, perhaps just in order to annoy you, or perhaps for the more substantial reason that I have nowhere to live and no land of my own, but I have got hold of a tent, legitimately or otherwise. If I now try to do this thing that I want to do, the chances are that the state will intervene on your behalf. If it does, I shall suffer a constraint on my freedom. The same goes, of course, for all unpermitted uses of a piece of private property by those who do not own it, since 'private ownership by one person pre-supposes non-ownership on the part of other persons' [Karl Marx]. But the free enterprise economy rests upon private property: in that economy you sell and buy what you respectively own and come to own. It follows that libertarians cannot complain that a socialist dispensation restricts freedom, *by contrast* with the dispensation that they themselves favour.

2e. ... The government certainly interferes with a landowner's freedom if it establishes public rights of way and a right for others to pitch tents on his land. But it also interferes with the freedom of would-be walkers or tentpitchers when it prevents them from indulging *their* 'individual inclinations'. The general point is that incursions against private property which *reduce* owners' freedom by transferring rights over resources to non-

owners thereby *increase* the latter's freedom. In advance of further argument, the net effect on freedom of the resource transfer is indeterminate. ...

2f. ... The Right extols the freedom enjoyed by all in a liberal capitalist society. The Left complains that the freedom in question is meagre for poor people. The Right rejoins that the Left confuses freedom with resources. 'You are free to do what no one will interfere with your doing', says the Right. 'If you cannot afford to do it, that does not mean that someone will interfere with your doing it, but just that you lack the means or ability to do it. The problem the poor face is lack of ability, not lack of freedom.' The Left may say that ability should count for as much as freedom does. The Right can then reply, to significant political effect: so *you* may think, but our priority is freedom.

In my view, the depicted right-wing stance depends upon a reified view of money. Money is unlike intelligence or physical strength, poor endowments of which do not, indeed, prejudice freedom, where freedom is understood as absence of interference. The difference between money and those endowments implies, I shall argue, that lack of money *is* (a form of) lack of freedom, in the favoured sense of freedom, where it is taken to be absence of interference.

To see this, begin by imagining a society without money, in which courses of action available to people, courses they are free to follow without interference, are laid down by the law. The law says what each sort of person, or even each particular person, may and may not do without interference, and each person is issued with a set of tickets detailing what she is allowed to do. So I may have a ticket saying that I am free to plough this piece of land, another one saying that I am free to go to that opera, or to walk across that field, while you have different tickets, with different freedoms inscribed on them.

Imagine, now, that the structure of the options written on the tickets is more complex. Each ticket lays out a disjunction of conjunctions of courses of action that I may perform. I may do A and B and C and D, *or* B and C and D and E, *or* E and F and G and A, and so on. If I try to do something not licensed by my tickets or ticket, armed force intervenes.

By hypothesis, these tickets say what my freedoms (and consequently, my unfreedoms) are. But a sum of money is nothing but a highly generalized form of such a ticket. A sum of money is a license to perform a disjunction of conjunctions and actions – actions like, for example, visiting one's sister in Bristol, or taking home, and wearing, the sweater on the counter at Selfridge's.

Suppose that someone is too poor to visit her sister in Bristol. She cannot save, from week to week, enough to buy her way there. Then, as far as her freedom is concerned, this is equivalent to 'trip to Bristol' not being written on someone's ticket in the imagined non-monetary economy. The woman I have described has the capacity to go to Bristol. She can board the underground and approach the barrier which she must cross to reach the train. But she will be physically prevented from passing through it, or physically ejected from the train, or, in the other example, she will be physically stopped outside Selfridge's and the sweater will be removed. The only way that she will not be prevented from getting and using such things is by offering money for them.

To have money *is* to have freedom, and the assimilation of money to mental and bodily resources is a piece of unthinking fetishism, in the good old Marxist sense that it misrepresents *social relations of constraint as things* that people lack. In a word: money is no object.

2g. Here is an objection to the banal argument presented in 2d above. In the course of that argument, I supposed that to prevent someone from doing something that he wants to do is to make him, in that respect, unfree. ... On [my opponent's] definition [of 'freedom'], which may be called the *rights definition of freedom*, I am unfree only when someone prevents me from doing what I have a right to do, so that he, consequently has no right to prevent me from doing it. Nozick was using the rights definition of freedom when he wrote ...

Other people's actions place limits on one's available opportunities. Whether this makes one's resulting action non-voluntary depends upon whether these others had the right to act as they did.

Now, if one combines this rights definition of freedom with a moral endorsement of private property, with a claim that, in standard cases, people have a moral right to property that they legally own, then one reaches the result that the protection of (legitimate) private property cannot restrict anyone's freedom. It will follow from the moral endorsement of private property that you and the police are justified in preventing me from pitching my tent on your land, and, because of the rights definition of freedom, it will then further follow that you and the police do not thereby restrict my freedom. So, on the rights definition of freedom, which is, after all, the one that Nozick uses, private property need not, as I contend it must, restrict freedom. ...

2h. ... Libertarians want to say that interferences with people's use of their private property are unacceptable because they are, quite obviously, abridgements of freedom, *and* that the reason why protection of private property does not similarly abridge the freedom of non-owners is that

owners have a right to exclude others from their property and non-owners consequently have no right to use it. But they can say both things only if they define freedom in two incompatible ways.

2i. The retreat to the rights definition lands Nozick inside a circle. On the rights definition of freedom, a person is entirely free when he is not prevented from performing any action that he has a right to perform: on the rights definition, interfering with a person interferes with his freedom only if the interfering person lacks the right to commit the given interference. Accordingly, to know whether a person is free, in the rights-laden sense of the term, we have to know what his (and others') rights are. But what characterization of people's rights does Nozick provide? Either no characterization at all, or a characterization in terms of freedom, something like: people have those rights the possession of which secures their freedom.

Thereby Nozick locks himself inside a circle. For Nozick, there is justice, which is to say no violation of anyone's rights, when there is lack of coercion, which means that there is justice when there is no restriction on freedom. But freedom is then itself defined in terms of non-violation of rights, and the result is a tight definitional circle and no purchase either on the concept of freedom or on the concept of justice. ...

LIBERTY AND WEALTH

from F. A. Hayek, *The Constitution of Liberty* (1960)

The transition from the concept of individual liberty to that of liberty as power has been facilitated by the philosophical tradition that uses the word "restraint" where we have used "coercion" in defining liberty. Perhaps "restraint" would in some respects be a more suitable word if it was always remembered that in its strict sense it presupposes the action of a restraining human agent. In this sense, it usefully reminds us that the infringements on liberty consist largely in people's being prevented from doing things, while "coercion" emphasizes their being made to do particular things. Both aspects are equally important: to be precise, we should probably define liberty as the absence of restraint and constraint. Unfortunately, both these words have come also to be used for influences on human action that do not come from other men; and it is only too easy to pass from defining liberty as the absence of restraint to defining it as the "absence of obstacles to the realization of our desires" or even more generally as "the absence of external impediment." This is equivalent to interpreting it as effective power to do whatever we want. This reinterpretation of liberty is particularly ominous because it has penetrated deeply into the usage of some of the countries where, in fact, individual freedom is still largely preserved. In the United States it has come to be widely accepted as the foundation for the political philosophy dominant in "liberal" circles. [They] have spread an ideology in which "liberty is power, effective power to do specific things" and the "demand of liberty is the demand for power," while the absence of coercion is merely "the negative side of freedom" and "is to be prized only as a means to Freedom which is power." ...

This confusion of liberty as power with liberty in its original meaning inevitably leads to the identification of liberty with wealth; and this makes it possible to exploit all the appeal which the word "liberty" carries in the support for a demand for the redistribution of wealth. Yet, though freedom and wealth are both good things which most of us desire and though we often need both to obtain what we wish, they still remain different. Whether or not I am my own master and can follow my own choice and whether the possibilities from which I must choose are many or few are two entirely different questions. The courtier living in the lap of luxury but at the beck and call of his prince may be much less free than a poor peasant or artisan, less able to live his own life and to choose his own opportunities for usefulness. Similarly, the general in charge of an army or the director of a large construction project may wield enormous powers which in some respects may be quite uncontrollable, and yet may well be less free, more liable to have to change all his intentions and plans at a word from a superior, less able to change his own life or to decide what to him is most important, than the poorest farmer or shepherd. ...

Above all, however, we must recognize that we may be free and yet miserable. Liberty does not mean all good things or the absence of all evils. It is true that to be free may mean freedom to starve, to make costly mistakes, or to run mortal risks. In the sense in which we use the term, the penniless vagabond who lives' precariously by constant improvisation is indeed freer than the conscripted soldier with all his security and relative comfort. But if liberty may therefore not always seem preferable to other goods, it is a distinctive good that needs a distinctive name. And though "political liberty" and "inner liberty" are long-established alternative uses of the term which, with a little care, may be employed without causing confusion, it is questionable whether the use of the word "liberty" in the sense of "power" should be tolerated.

In any case, however, the suggestion must be avoided that, because we employ the same word, these "liberties" are different species of the same genus. This is the source of dangerous nonsense, a verbal trap that leads to the most absurd conclusions. Liberty in the sense of power, political liberty, and inner liberty are not states of the same kind as individual liberty: we cannot, by sacrificing a little of the one in order to get more of the other, on balance gain some common element of freedom. We may well get one good thing in the place of another by such an exchange. But to suggest that there is a common element in them which allows us to speak of the effect that such an exchange has on liberty is sheer obscurantism, the crudest kind of philosophical realism, which assumes that, because we describe these conditions with the same word, there must also be a common element in them. But we want them largely for different reasons, and their presence or absence has different effects. If we have to choose between them, we cannot do so by asking whether liberty will be increased as a whole but only by deciding which of these different states we value more highly.

THE VALUE OF LIBERTY

from John Rawls, *A Theory of Justice* (1971)

The inability to take advantage of one's rights and opportunities as a result of poverty and ignorance, and a lack of means generally, is sometimes counted among the constraints definitive of liberty. I shall not, however, say this, but rather I shall think of these things as affecting the worth of liberty, the value to individuals of the rights that the first principle defines. With this understanding, and assuming that the total system of basic liberty is drawn up in the manner just explained, we may note that the two-part basic structure allows a reconciliation of liberty and equality. Thus liberty and the worth of liberty are distinguished as follows: liberty is represented by the complete system of the liberties of equal citizenship, while the worth of liberty to persons and groups depends upon their capacity to advance their ends within the framework the system defines. Freedom as equal liberty is the same for all; the question of compensating for a lesser than equal liberty does not arise. But the worth of liberty is not the same for everyone. Some have greater authority and wealth, and therefore greater means to achieve their aims. The lesser worth of liberty is, however, compensated for, since the capacity of the less fortunate members of society to achieve their aims would be even less were they not to accept the existing inequalities whenever the difference principle is satisfied. But compensating for the lesser worth of freedom is not to be confused with making good an unequal liberty. Taking the two principles together, the basic structure is to be arranged to maximize the worth to the least advantaged of the complete scheme of equal liberty shared by all. This defines the end of social justice.