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JUNGE AKADEMIE

AN IDEAL BEING TESTED: THE MINIMAL  
STATE OF CLASSICAL LIBERALISM

A TREATISE ON LIBERTY

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## 1. THE MINIMAL STATE: LIBERTY AS NONINTERFERENCE

The modern history of individual liberty started off with an ideal, which remained as influential as controversial over the centuries. It is classical liberalism's ideal of a state, which guarantees its citizens' freedom by only protecting them from being harmed. Despite this it does not get involved in the citizens' affairs and is neutral to all individual matters.

It is based on the modern anthropology, considering humans as rational agents, as fertile sculptors of themselves – as 'plastes et factor'.<sup>1</sup> This modern anthropology is the initiation of individual liberty appreciating an individual private sphere, in which everybody has the right to develop his own personality regardless of others' or society's opinions. This also found an expression in John Locke's concept of self-ownership, stating that everybody has the exclusive right over his own body and life, what is at the heart of classical liberalism. He said, that no one living can claim power over another by divine authority, and since men are equal in nature, the natural condition of man would be a "State of perfect Freedom".<sup>2</sup> It constitutes, that everybody is his own master, and that everybody has an "equal right [...] to his Natural Freedom, without being subjected to the Will or Authority of any other Man."<sup>3</sup>

It is clear that an unrestrained individual liberty is not reconcilable with the liberty of everybody else, hence, as Kant stated, a consistent understanding of individual liberty restrains it to the extent, that it does not harm anybody else.<sup>4</sup> This deliberation is derived from the categorical imperative: "Act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction."<sup>5</sup> Since the laws are either derived or consistent with the categorical imperative, the role of the just state would only be to ensure the conditions of right. Accordingly the state is not responsible for the welfare and happiness of each and every citizen. Kant recognises freedom as the only innate right, what he defines as the independence from being constrained by another's choice. Freedom insofar as it can coexist with the freedom of every other in accordance with the universal law, would be the only original right belonging to every man by virtue of his humanity.<sup>6</sup> This implies innate equality, meaning independence from being bound by others more than one can in turn bind them.

Based on these considerations Humboldt formulates, that "the State os to abstain from all solicitude for the positive welfare of the citizens and not to proceed a step further than is necessary for their mutual security and protection against foreign enemies; for with no other object should it impose restrictions on freedom."<sup>7</sup> Humboldt states, that a welfare state would only lead "to a fruitless struggle to es-

1 Picco della Mirandola, Oration on the Dignity of Man.

2 *Locke*, p. 70.

3 *Ibid.*

4 Kant, 'Metaphysics of Morals'. pp. 23 – 26.

5 Kant , 'Grounding for the Metaphysics of Morals', p. 30.

6 *Ibid.*, p. 93.

7 Humboldt, p. 37.

cape pain"<sup>8</sup>, whereas men's individuality and creative powers would wither. Therefore the power to ensure protection must not be extended to the pursuit of any other purpose and it would be necessary to secure the consent of every individual, because when the state extended its activity to include matters affecting the positive welfare of the citizen, nothing would be left to the unconsenting but to withdraw from the community in order to escape the jurisdiction.<sup>9</sup>

Inspired by the Humboldtian considerations Mill provided the probably most concise formulation of classical liberalism's rationale: "[...] the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. [...] Over himself, over his own body and mind, the individual is sovereign."<sup>10</sup> Thus "[t]he only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of their efforts to obtain it."<sup>11</sup>

Thus what supports the paramount importance of individual liberty? All in all there are two approaches to justify it. On the one hand is the a priori argument of Locke and Kant, that individual liberty is the only innate right and all human beings are endowed with equal liberty which has to be respected in accordance with the categorical imperative. On the other hand is the utility argument of Humboldt and Mill, stating that without individual liberty civilisation cannot advance and that there will be no scope for spontaneity, originality and moral courage.

This ideal state of classical liberalism seems to contain two integral main aspects. First is the neutrality of the state, which must not prescribe what is a good life and towards which goals each individual shall strive. Second is, what is implied by the first aspect, the individuals' freedom, which is based on the modern anthropology of the autonomous individual endowed with reason, who is capable of choosing one's own goals and to reach them and the conviction that all men are created equal. It expresses the conviction, that individuals know their interests best and guarantees the individual a sphere of privacy, with which others must not interfere and in which he can develop his own life and plans. The state in this ideal is the protector of this sphere and the scope of its power is limited to this end. It understands liberty as noninterference and deems this as sufficient for everybody being his own master and not being subjected to the will or authority of another. It is this what is called *laissez faire*: the state does not get involved, and lets the people do as they like, as long as nobody else is harmed by their activities.

But even though this might be the heart of liberalism, the question of what is to be derived from this is highly controversial, even among all kind of liberals. Can there be a neutral state? Can a concept of mere noninterference be sufficient to guarantee the individual's liberty, to allow them to be there own master and live an autonomous life? These questions are to be considered in the following.

8 Ibid., p. 40.

9 Ibid.

10 Mill, p. 17

11 Ibid., p. 21.

## 2. REVIEW OF LIBERTY AS NONINTERFERENCE

Many critics from all perspectives have stated that the night watchman state – or the concept of liberty as mere noninterference – fail to provide actual freedom. Either they say that noninterference is only a single aspect of liberty among other essential ones. Or they argue that noninterference as a concept generally falls short in understanding what it means to be free, i.e. to be one's own master. Most of them state, that noninterference is only the negative side of freedom, as describing an absence, a 'freedom from' something, but ignores that there is a positive side of liberty, that actual liberty requires the fulfilment of positive conditions and therefore state action beyond noninterference.

One of the first who made this explicit distinction between negative and positive liberty was Erich Fromm. He stated that not only powers outside of a person can limit his freedom, but that there are "inner restraints, compulsions, and fears, which tend to undermine the meaning of the victories freedom has won against its traditional enemies."<sup>12</sup> Therefore freedom could not mean a maximisation of freedom from interference. He argues, that the modern society has liberalised men increasingly from the bondage of nature and traditional social bonds and that it put the individual entirely on his own feet, as opposed to the system of the Middle Ages under which everybody had a fixed place in an ordered social system.<sup>13</sup> Yet the furthering of 'freedom from' would have cut all ties between one individual and the other and thereby isolated and separated the individual from his fellow men. In such a capitalist society (familiar to a classical liberal laissez faire society with a minimal state) the individual therefore would have become more alone, isolated and "an instrument in the hands of overwhelmingly strong forces outside himself, he became an "individual", but a bewildered and insecure individual."<sup>14</sup>

Hence Fromm challenges the idea that in "modern society man has become the centre and purpose of all activity, that what he does he does for himself; that the principle of self-interest and egotism are the all-powerful motivations of human activity."<sup>15</sup> Instead the individual would be forced to pursue extrapersonal goals because of the subordination of the individual as a means to economic ends. "Man has built his world [...]. But he has become estranged from the product of his own hands, he is not really the master any more of the world he has built; on the contrary, this man-made world has become his master."<sup>16</sup> The individual would have become a cog in a vast machine and hence would desire to escape this world to restore his lost security. But this would not be possible within such a system, since the individual could only find a new and fragile security at the expense of sacrificing the integrity of his individual self. "Thus freedom – as freedom from – leads into new bondage."<sup>17</sup>

Escaping this vicious circle requires a new kind of freedom – a state of positive freedom, in which the individual exists as an independent self and yet is not isolated but united with the world and where he can realise all his potentials. "[P]ositive freedom consists in the spontaneous activity of the total, integrated personality."<sup>18</sup> So the answer Fromm provides to the problem of freedom is spontaneous activ-

<sup>12</sup> Fromm, p. 91.

<sup>13</sup> Ibid., p. 93.

<sup>14</sup> Ibid., p. 96.

<sup>15</sup> Ibid., p. 94.

<sup>16</sup> Ibid., p. 96.

<sup>17</sup> Ibid., p. 221.

<sup>18</sup> Ibid., p. 222.

ity, what would be the only way in which man can overcome the terror of aloneness without sacrificing the integrity of his self. "Positive freedom as the realization of the self implies the full affirmation of the uniqueness of the individual."<sup>19</sup> The realisation of man's individuality, holding him as an unique individual self, is an end that could never be subordinated to other purposes. This self realisation would only be possible when the individual is free from any power outside himself, Fromm mentions particularly economic compulsions like unemployment and starvation. This realisation of positive freedom shall be reached by means of a command economy, by eliminating the rule of "great economic power without any responsibility to those whose fate depends on their decisions"<sup>20</sup> through expanding the principle of democracy to all spheres in order to allow the individual to actively participate in determining his life and that of society.

Another concept of liberty, which is concerned with extrapersonal powers beyond interference which constrain individuals' liberty is Pettit's concept of freedom as antipower. It defines liberty as not being subject to the arbitrary power of another and it sees the antonym of freedom not as classical liberalism does as interference, but as subjugation, as defenseless susceptibility to domination.<sup>21</sup> At first sight this seems to be a higher standard of proving interference, but it is far below this of classical liberalism, because Pettit's main objection to the concept of liberty as noninterference is that it is tolerant of relationships of domination, since domination does not necessarily mean actual interference. "Under the conception of freedom as antipower, I am free to the degree that no human being has the power to interfere with me: to the extent that no one else is my master, even if I lack the will or the wisdom required for achieving self-mastery."<sup>22</sup> Power that someone holds over another is domination, "to the extent (1) they have the capacity to interfere (2) with impunity and at will (3) in certain choices that the other is in a position to make."<sup>23</sup>

The traditional instance of subjugation is slavery, but regarding to this also less obvious examples can be freedom abrogating domination, just as the relations of a husband and his wife, parents and their child, or between employer and employee. For instance the employer usually has economical power over the employee because of greater economical resources, and can fire his employee "as whim inclines him and hardly suffer embarrassment for doing so."<sup>24</sup> And for Pettit it does not matter, if such a relation is founded on consent for the matter of domination. When it gives one party the effective capacity to interfere more or less arbitrarily in some of the other's choices, this means that one person subjugates the other.

Hence in order to guarantee people's freedom it is necessary to guard them against subjugation and Pettit sees the solution in antipower, which is some sort of power, but only to abolish certain forms of domination without putting any new forms of it in their place and therefore actively reducing and eliminating domination.<sup>25</sup> He then challenges the classical liberal understanding of freedom as noninterference, which considers all coercive laws as abrogative of liberty. Because when freedom is not

19 Ibid., p. 226.

20 Ibid., p. 234.

21 Pettit, p. 576.

22 Ibid., p. 578.

23 Ibid.

24 Ibid., p. 581.

25 Ibid., p. 588.

understood as mere noninterference, but as antipower, it does not mean, that each interference means the abrogation of liberty, since a constitutional authority may interfere, in the sense that it holds a power of coercion, but it does not itself involve subjugation or domination, it does not involve anyone's having the capacity to interfere arbitrarily into another's affairs.<sup>26</sup> So to promote every citizen's liberty the state has to reduce the difference – the imbalance – in resources. This can be done by either giving the powerless protection against the resources of the powerful, or by regulating the use that the powerful make of their resources, or by giving the powerless new, empowering resources of their own; e.g. welfare-state initiatives to enhance the day to day capacities of the citizens and to allow them access to cultural resources like universities, or insurances and health care. Therefore this concept would connect Berlin's positive and negative concepts, since it concentrates on the power of interference that others may wield, not just on the actual interference that they perpetrate.

Fromms considerations are also somehow related to other ideas of "positive liberty". Raz states that a person is only really free when he is autonomous. "The autonomous person is a (part) author of his own life."<sup>27</sup> Therefore "[a]utonomy is opposed to a life of coerced choices. It contrasts with a life of no choices, or of drifting through life without ever exercising one's capacity to choose. [...] To choose one must be aware of one's options. [...] the autonomous person [...] must be capable of understanding how various choices will have considerable and lasting impact on his life."<sup>28</sup> Regarding to Raz autonomy consists of three distinct components: "appropriate mental abilities, an adequate range of options and independence."<sup>29</sup> He exemplifies the necessity of an adequacy of options with "The Man in the Pit" and "The Hounded Woman" of whom neither has an autonomous life due to a lack of an adequate range of options to choose from.

The idea of being the author of one's life requires that an individual controls all aspects of his life.<sup>30</sup> Independence means freedom from coercion and manipulation, which subject the will of one person to that of another and therefore treat them as an object rather than as an autonomous person. This argument is clearly linked to classical liberalism, since it is based on Kant's second formulation of the categorical imperative. But despite the fact that a person cannot be made autonomous, everybody would have "autonomy-based duties towards another person,"<sup>31</sup> since providing autonomy means to secure the background conditions which enable a person to be autonomous. Such duties are refraining from coercion and manipulation, what might be seen as the negative aspect of liberty, but beyond that, creating the adequate range of options which are necessary for an autonomous life. And since "autonomy is a constituent element of the good life"<sup>32</sup>, the government has a duty to promote the autonomy of people and therefore to use coercion both for stopping them from action which would diminish people's autonomy and in order to force them to take actions which are required to improve people's options and opportunities.<sup>33</sup>

26 Ibid., p. 597.

27 Raz, p. 369.

28 Ibid., p. 371.

29 Ibid, p. 372.

30 Ibid., p. 374.

31 Ibid., p. 408.

32 Ibid.

33 Ibid., p. 416.

But autonomy is not identical with positive liberty. Positive liberty derives its value only from its contribution to personal autonomy. But since positive liberty is an essential ingredient and a necessary condition of the autonomous life, it is intrinsically valuable. The same applies to negative liberty – liberty from coercive interference – which would only be valuable in as much as it serves positive freedom and autonomy. Thereby negative liberty is degraded to a means to an end, the end of autonomy.

Apparently there are many reasons why a night watchman state fails to promote people's liberty and why at its basis the idea of liberty as noninterference falls short in understanding what liberty actually is and what it requires. Be it Fromm's positive freedom with the demand of self-realisation to reunite the individual with his environment, Pettit's requirement of antipower to compensate imbalances of power and therefore to liberate the individual from subjugation, or Raz' concept of autonomy, imposing social duties on the individual towards their fellow men in order to guarantee their autonomy. They all claim that the concept of liberty as mere noninterference is invalid and that for actual – or real – liberty state action is required, which goes beyond the minimal state.

### 3. CLASSICAL LIBERALISM'S RESPONSE

But by no means it is clear that these positions are self-evident and compelling. It might be common sense nowadays that some kind of positive liberty needs to be guaranteed by the state in order to protect people's freedom. But this does not mean, that the arguments of classical liberalism promoting liberty as noninterference are outdated and anachronistic and lost all their validity. One of the most important recent promoters of classical negative liberty was Hayek, even though he was not an advocate of pure *laissez faire*.

His basic understanding of liberty is the absence of coercion by other men. This definition apparently depends on the definition of coercion. Hayek describes it as "such control of the environment or circumstances of a person by another that, in order to avoid greater evil, he is forced to act not according to a coherent plan of his own but to serve the ends of another. [...] Coercion is evil precisely because it thus eliminates an individual as a thinking and valuing person and makes him a bare tool in the achievement of the ends of another."<sup>34</sup> The connection to classical liberalism and Kant's second formulation of the categorical imperative is apparent. It already explains why the initiation of coercion – the interference into the spheres of some in favour of the freedom of others – to further liberty is self-contradictory. It might indeed enhance the range of options of one can choose from, but only for the price, that somebody else is degraded to a bare tool, to a mere means to the ends of another.

One of the points of major significance he makes is that liberty's meaning is limited to interpersonal relations only.<sup>35</sup> What distinguishes the free man from the slave is that the former is independent from the arbitrary will of another. When freedom refers solely to a relation of one to another, the only infringement on it is coercion by the other and the particular arrange of physical possibilities from which a person can choose at a given moment has no direct relevance to freedom. The question of how

<sup>34</sup> Hayek, p. 19

<sup>35</sup> Ibid., p. 12.



many courses of action are open to a person is indeed important. Nonetheless it is distinct from that of to which extent he can follow his own plans and intentions, "to what extent the pattern of his conduct is if his own design, directed toward ends for which he has been persistently striving rather than toward necessities created by others in order to make him do what they want."<sup>36</sup> Whether he is free or not depends on whether he can expect to shape his course of action in accordance with his present intentions, or whether somebody else has power so to manipulate the conditions as to make him act according to that person's will rather than his own."

Obviously there are further different meanings of liberty, describing what most men regard as desirable.

Firstly there is political freedom, in the sense of participation in public affairs<sup>37</sup>, e.g. in the process of legislation, etc., what Fromm considers as the universal remedy for oppression: the democratisation of all spheres. But this regards rather to collective liberty than to individual liberty. Fromm seems to overlook that a free people in this democratic sense "is not necessarily a people of free men."<sup>38</sup> The individual is subjected to the will of the majority and therefore not his own master. When two wolves and a sheep hold a poll about what they will have for lunch, nobody would consider the sheep as being free because of its participation in the poll. The application of the concept of freedom to a collective does make sense, when it refers to a people's desire to be free from a foreign yoke and to determine its own fate. Then "freedom" means the absence of coercion of a people. But they are two clearly distinct concepts. Furthermore it appears odd, that Fromm is concerned with liberating the individual from being "a cog in a vast machine" by depriving him from all direct influence his decisions have and reducing his actual power to the influence that one vote out of a million has. Thereby each individual becomes subordinated to the will of the majority, what can barely be called self-mastery, just because of the participation in that process. The argument of classical liberalism remains well founded: nothing would be left to the unconsenting but to withdraw from the community in order to escape the subjugation.

Second is liberty as the "physical ability to do what i want."<sup>39</sup> It is the power to satisfy one's wishes or the extent of the choice of one's alternatives, the power to alter the environment to one's liking. This freedom from obstacles means omnipotence and the identification of freedom with power. All the above advocates of positive liberty identify to a bigger or lesser extent freedom with power to shape one's environment. Fromm desires a commanding power to design the economy; and even though Pettit states, that his antipower is no actual power, it still is some sort of power regarding other individuals' spheres; and Raz' concept of autonomy requires the power to force people to provide, what is necessary for an autonomous life. This understanding of liberty as power confuses liberty with what men desire, generally wealth, and inevitably carries a demand for the redistribution of wealth in support of "liberty". And as for instance Rawls has shown, freedom and wealth are good things which most people desire to obtain what they wish. But nonetheless they remain different. "Above all, however, we must recognise that we may be free and yet miserable. Liberty does not mean all good things or the

36 Ibid.

37 Ibid., p. 13.

38 Ibid.

39 Ibid., p. 15.



absence of all evils."<sup>40</sup> If liberty may therefore not always seem preferable to other goods, it is a distinctive good that needs a distinctive name.

This argument that liberty is not identical with all the good things in life, draws attention to a highly significant point: the connection of freedom and responsibility. Liberty is not only an opportunity, it can be a burden at the same time and it also means that one must bear the consequences of his actions. Most of the fear of freedom (as noninterference) derives from a denial of responsibility for the own actions. It expresses the conviction, that it is nothing but circumstances over which one has no control that has determined his position in life or even his actions. This conviction of determinism – that all natural phenomena are uniquely determined and that man himself should be seen as part of this determined nature – led to the conclusion that man's actions and the working of his mind must be regarded as necessarily determined by external circumstances.<sup>41</sup>

But the conclusions deriving from this conviction do not, as Fromm claims, further human spontaneity, but eliminate it. It eliminates the role of an individual personality, at least being capable of being one's own master and living an autonomous life, what is essential to the conception of freedom and responsibility. "If we allow men freedom because we presume them to be reasonable beings, we also must make it worth their while to act as reasonable beings by letting them bear the consequences of their decisions. This does not mean that a man will always be assumed to be the best judge of his interests; it means merely that we can never be sure who knows them better than he and that we wish to make full use of the capacities of all those who may have something to contribute to the common effort of making our environment serve human purposes."<sup>42</sup> The assigning of responsibility presupposes every individual's capacity for rational action, it presupposes a certain minimum capacity in them for learning and foresight, for being guided by a knowledge of the consequences of their action. Therefore stating that people are not responsible means to deny their capacity of rationality, what would make a self-determined and free life impossible. On the other hand this also explains why liberty can be only applied to those who can be held responsible and not for instance to infants or mentally ill or retarded persons, because they are not capable of learning or have not yet learned enough from their experience to guide their actions by knowledge thus acquired.<sup>43</sup>

The burden of choice that freedom imposes, the responsibility for one's own fate that a free society places on the individual, has under conditions of the modern world become a main source of dissatisfaction.<sup>44</sup> It was Fromm formulating the critique that in modern capitalism the individual is alienated from his environment and therefore is anxious and isolated and therefore cannot be himself (i.e. free). He illustrated this with the comparison of the good old businessman, who owns a grocery and knows all his customers and their special interests, etc. with the modern white collar worker who would be completely disposable and subjected to extrapersonal purposes and mere economical compulsions and who is only a cog in a vast machine. This claim has a true founding. To a much greater degree than ever before the success of an individual depends not on what special abilities he possesses in the ab-

40 Ibid., p. 17.

41 Ibid., p. 63.

42 Ibid., p. 67.

43 Ibid.

44 Ibid., p. 70.

stract but on these abilities being put to the right use. In times of less specialisation and less complex organisation (cf. Fromm's grocer), when almost everybody could know most of the existing opportunities, the problem of finding an occupation for putting one's special skills and talents to good use was less difficult.<sup>45</sup>

The necessity of finding a sphere of usefulness (Fromm would call it economic compulsion), an appropriate job, might be the hardest discipline that a free society imposes on the individual. "It is however inseparable from freedom, since nobody can assure each man that his gifts will be properly used unless he has the power to coerce others to use them."<sup>46</sup> Only by depriving somebody else of the choice as to who should cooperate with him, whose capacities or which products he has to use, could the state guarantee that one's gifts will be used in the manner he feels he deserves. It is hard to imagine, how the individual in a planned economy, as Fromm demands, is set free to his spontaneous activity, when he is ordered by some planning agency to a profession he has to occupy, etc. He can barely be free from economic compulsions, when the central planning agency (or whatever institution) schedules what the common good, the demand of all others, requires him to do.

Both contradicting sides share another claim, which superficially appears to be identical, but which causes tremendous confusion. It is the implication of equality. The original understanding of classical liberalism was equality before the law, a formal equality, allowing no privileges for particular persons or particular groups of persons. Everybody was to be treated in the exact same way. Those objecting the concept of negative liberty as noninterference, claim nonetheless to pursue the ideal of equality. But apparently in a different sense, since they are not satisfied with the inequalities, which such a formal understanding of equality necessarily produces. "Equality of the general rules of law and conduct, however, is the only kind of equality conducive to liberty and the only equality which we can secure without destroying liberty."<sup>47</sup> It is an obvious matter of fact, that no two humans are completely identical, since all men have different talents and faculties. When then the individuals exercise their faculties in order to develop their life plans, the results will be necessarily unequal. The fact that formal equality produces inevitably substantive inequality is not a stigma of individual liberty, but part of its merit, since it hence demonstrates that some manners of living are more successful than others<sup>48</sup>. Treating them equally recognises that individuals are different. But pursuing the end of making them equal, providing them with the same income, social status or resources of whatever kind, denies their human nature. Either people are treated equally or they are made equal. This is an unbridgeable gap and pursuing both at the same time is not possible. Those who desire equality in the latter, substantive sense, do not really demand equality of freedom but a distribution that conforms more closely to their concepts of individual merit, what is irreconcilable with freedom. If one objects the use of coercion to bring about a more even distribution, it does not mean, that one does not regard this as desirable. But if a free society is to be preserved, it is essential, that the desirability of particular objects is not sufficient for the use of coercion. To guarantee the equality of liberty Iustitia has to be blind.

45 Ibid.

46 Ibid.

47 Ibid., p. 75.

48 Ibid.

Pettit is right that social and economical power may have influence on individuals and their lives, nonetheless it is not coercive power and therefore not actual domination. It is only in a *laissez faire* society that nobody has the coercive power to coerce individuals into pursuing ends, which they do not approve of. The only sheer arbitrary power that is exercised, is exercised by the government, when it is not restricted to the protection of its citizens, since it has to favour some at the expense of others. Pettit argues that a government concerned with the execution of freedom as *antipower* would be restrained by a constitution, limiting the government's action to the elimination of domination. But the power to regulate dominating power itself is arbitrary and literally unrestrained, since every resource can depending on the particular situation give rise to some sort of power, which can potentially mean domination. Hence the government would have the power to regulate every aspect of the individuals' life.

When freedom gives way to inequality and the accumulation of power it would consequently enable the manipulation of will and desire by the greater power. Yet what is the economical power, an entrepreneur can have, compared to the nonbargainable power, the state has over its citizens? Since economical relations are at least in a market society based on mutual consensus, both parties are allowed to pursue their own personal ends. But Pettit does not care about the consensual basis of agreements, when it comes to subjugation.<sup>49</sup> By arguing that an agreement could be more advantageous for the weaker party if there would be no imbalance of power he questions the general validity of all contracts – consensual, uncoerced agreements – and thus challenges the individual's capacity to master an autonomous life and deprives him from his characteristic feature of being a rational agent of himself, being his own master. When a person enters a contract voluntarily, because it serves his own ends, i.e. it is beneficial for him, and when this person is free to terminate this agreement (supposed it is a continuing obligation, such as in Pettit's example of an employment agreement) at any time, when he decides it does not serve his ends anymore, it is unapparent where the domination occurs. When now Pettit is concerned with the evils deriving from great power, how can he replace private power with state power and think it would be an enhancement in this light? The concerning point is not, that this sort of *antipower* would give the former powerless power and therefore cause new domination, it is rather that the state itself claims power over all aspects of its citizens' lives, which is basically unrestrained and causes domination, which overwhelmingly outshines any sort of economical power. This is the main distinction between economical and state power: in a market economy all participants depend on mutual consensus and the individuals are respected as their own autonomous masters – with all implied advantages and burdens – whereas a state concerned with the individuals' positive welfare cannot rely on the individual's consent and inevitably degrades some to mere means to the ends of others by exercising unmitigated power. That this concept does not promote actual liberty becomes obvious, when one considers a situation, that goes beyond the intuitive common sense conviction that entrepreneurs (employers) are greedy and evil and ordinary workers are their helpless victims in need of protection. When for instance employees because of the great resources of their labour union have a greater bargaining power than the unorganised employer, regarding to Pettit's concept of freedom of *antipower*, the employer then would be in need of *antipower* to restrain the powerful employees' domination. Whatever this *antipower* in a particular case would be, would it not mean, that the employees would have to accept to work under worse conditions than they could have had under an unrestrained

49 Pettit, p. 585.

mutual consent? This seems to be far closer to actual domination – to forced labour or even slavery – than the original situation.

All the concepts of positive liberty support the wellbeing of some at the expense of others and thereby degrade the latter to mere means to the ends of the former. So in order to enable some to live an autonomous life, others are necessarily deprived from their fundamental liberty. This could be justified by arguing, that the positive liberty of some is more important than the negative of the others, but this would contradict the claim of equality, of everybody's equal merit, which even the supporters of positive liberty share. So when someone demands the redistribution of wealth he can do so – probably based on some patterned understanding of justice – but not based on everybody's equal liberty. Thus a demand for greater material equality is in fact a demand for a juster distribution of the good things of this world, it is the objection to the fact that differences in reward do not correspond to any recognisable differences in the merits of those who receive them. But reward regarding to the individual's merit is irreconcilable with freedom.<sup>50</sup> Because probably everybody agrees, that each human has the same merit and therefore an absolutely even distribution would be required. This, as stated above, would abrogate every scope for personal development.

This extends to all attempts to justify welfare state measures for liberty's sake. It is not only since Nozick, that it is obvious, that taxation is equatable to forced labour.<sup>51</sup> When I seize somebody's proceeds of X hours of work, then this is the same, as if I would force him to work X hours for me. So a taxed person is coerced to work for a certain amount of time for the purpose of other people. How can this not interfere with one's autonomy? He then cannot be called his own master, or being autonomous. He is degraded to a mere object of others' purposes. Even the promoters of positive liberty recognise this fact. As Raz formulates: "Coercive interference, violates the autonomy of its victims. [...] it violates the condition of independence and expresses a relation of domination and an attitude of disrespect for the coerced individual."<sup>52</sup> It is an apparent self-contradiction in Raz' concept, that freedom from coercion is a necessary precondition of independence and hence autonomy and at the same time the individual has the duty to provide others with an adequate range of options to choose from. Obviously Raz is rather concerned with promoting conditions of a "good life" (for what he sees his concept of autonomy as an essential), than securing actual freedom.

#### 4. CONCLUSION

The debate of individual liberty is characterised by grave confusions. One of these main confusions is to confound liberty with what is required for a good life. Liberty might be necessary for a good life, but it is not identical with all the good things in life, and liberty does not itself guarantee a good life. Liberty includes the liberty to fail, what emphasises the significance of the connection of liberty and responsibility. When the individual is not held responsible for his own life, he is deprived from his ca-

50 Ibid., p. 82.

51 Nozick, p. 243.

52 Raz, p. 418.

capacity of making rational and autonomous decisions, what is a necessary precondition of freedom – of being one's own master. It denies man's characteristic of being an individual personality.

Another profound confusion is the meaning of equality referring to liberty. It was the original meaning of the equality of liberty, which recognised all humans as an individual personality and on the contrary actively trying to make them equal, denies the fact that humans are unequal and that the result of the free development of everybody's faculties and personality necessarily has to be unequal. The desire of some sort of substantive equality – usually a more even distribution of wealth – does not demand liberty but its abrogation, because it necessarily denies the individual's faculty to shape his own life in accordance with his own plans.

If one favours welfare measures, he can surely do so, but not by claiming to further liberty. It would be the enhancement of the living conditions of some at the expense of the freedom of others, what contradicts all above discussed understandings of liberty. Even though all the concepts of positive liberty recognise an importance of negative liberty – at least as a means to the end of positive liberty – they all deprive the individual's right to live uncoerced by others by justifying the initiation of coercion in some form or another for the furthering of others' purposes. But coercive interference necessarily eliminates autonomy, independence and individual liberty. It degrades the coerced to a mere means to an end – to a bare tool – and disrespects his right to freedom.

Eventually the considerations of classical liberalism referring to liberty, which support the minimal state, are still of importance. If the state is to promote every individuals liberty, it has to be restrained to the strict understanding of liberty as noninterference, since each promotion of the positive welfare necessarily infringes on the liberty of some in favour of the wellbeing of others.

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## FORUM FREIE GESELLSCHAFT (FFG) ...

... setzt sich ein für eine freie Gesellschaft, die Herrschaft des Rechts, die Unverletzlichkeit des Privateigentums, eine Kultur der Freiheit und Bürgerlichkeit, und eine politische Ordnung ein, die durch maximale Abwehrrechte des Bürgers und einen minimalinvasiven Staat gekennzeichnet ist. Die Aufgaben der Staatsvertreter bleiben auf hoheitliche Funktionen beschränkt, also den Schutz von Leib, Leben und Eigentum sowie die durch Setzung des Rechts im Fall von Konflikten. Recht wird dabei von Gesetzen unterschieden, weil ersteres aus Konventionen entsteht und letzteres Top down von Experten Gesetz wird.

Aufgabe von FFG ist es, die Erkenntnisse des klassischen Liberalismus wieder zu beleben und fortzuentwickeln. Wir sind der Auffassung, dass eine zweite Aufklärung erforderlich ist, die einer Erneuerung der geistigen Grundlagen folgt. Die Österreichische Schule, deren Stärken und Schwächen thematisiert werden, ist dabei ein Teil einer umfassenden Sozialphilosophie.

Einen Dritten Weg lehnen wir ab, da er in den Sozialismus und seine sanfteren Spielarten führt.

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Veröffentlichungsdatum: 13. Juni 2015