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Equality and Liberty: Must they Conflict?

It is often said that equality and liberty conflict and sometimes that they conflict irreconcilably. Such claims can be understood sociologically: as generalisations about the dangers posed by the advance or pursuit of the one for the survival or the prospects of the other.

This is how Tocqueville memorably presented the issue in his *Democracy in America*. He thought of the advance of equality as irresistible and cumulative:

It is impossible to believe that equality will not eventually find its way into the political world as it does everywhere else. To conceive of men remaining forever unequal upon a single point, yet equal on all others, is impossible; they must come in the end to be equal upon all.¹

Tocqueville saw equality—and more particularly equality of political resources and power, or democracy—as posing several likely dangers to the survival of liberty: mass conformity, majority tyranny, where a majority of citizens oppresses individuals or minorities or even subverts or abandons democracy itself, and a kind of mass-based despotism in which we see

an innumerable multitude of men all equal and alike, necessarily endeavouring to procure the petty and paltry pleasures with which they glut their lives. Each of them, living apart, is as a stranger to the fate of all the rest,—his children and his private friends constitute to him the whole of mankind; as for the rest of his fellow-citizens, he is close to them, but he sees them not, he touches them, but he feels them not; he exists but in himself and for himself alone; and if his kindred still remain to him, he may be said at any rate to have lost his country.

This chapter was first published in 1990. I must thank David Held for encouraging me to improve it.

¹ A. de Tocqueville, *Democracy in America*, 2 vols. (New York: Schocken Books, 1961), i, pp. 46–7.

Above such men there stands 'an immense and tutelary power, which takes upon itself alone to secure their gratifications, and to watch over their fate' and which 'renders the exercise of the free agency of man less useful and less frequent, it circumscribes the will within a narrower range, and gradually robs a man of all the uses of himself'.² This striking and complex sociological analysis had a deep impact on nineteenth-century liberalism (through John Stuart Mill) and (especially in this last aspect) on twentieth-century theories of mass democracy, from Ortega y Gasset to William Kornhauser—alongside Tocqueville's suggestive ideas about how these supposed egalitarian threats of liberty could be counteracted, by the happy existence of favouring economic, political, constitutional, and cultural conditions.

Liberty can also threaten equality. It is a commonplace of Marxist historiography to stress the ways in which the practice of bourgeois freedoms and the formal framework of rights that protect them, both generate and conceal class inequalities. Thus Georges Lefebvre interpreted the *Déclaration des droits de l'homme* as proclaiming a formal equality of rights, centering on property, the better to prevent the according of real, social equality to the poor and disinherited. As Albert Soboul eloquently put it,

If, in the Declaration, equality was associated with freedom, this was more a statement of principle, legitimizing the downfall of the aristocracy and the abolition of noble privilege, than an authorization of popular aspirations. By placing the right of property among the indefeasible natural rights, the members of the Constituent Assembly introduced a contradiction into their proposals which they could not surmount: the retention of slavery and of property qualifications made this manifest. Voting rights were granted in accordance with a predetermined financial contribution, in other words, according to affluence and wealth. Thus the rights which the constitutional bourgeoisie had recognized as belonging to man in general and citizens in particular were really only valid for the bourgeoisie; for the mass of 'passive' citizens they remained theoretical abstractions.³

For such analyses of the inequalitarian consequences of 'formal' bourgeois rights and freedoms, there was of course ample warrant in the classical marxist canon, from *The Jewish Question* onwards: as Marx and Engels wrote in the *Communist Manifesto*, 'By freedom is meant, under the present bourgeois conditions of production, free

² Ibid. ii, 380–1.

³ A. Soboul, *The French Revolution 1787–1799*, trans. A. Forrest, 2 vols. (London: NLB, 1974), i, p. 15.

trade, free selling and buying.⁴ Not that the general idea was either original or unique to Marxism. It has long been known that freedom for the pike spells death for the minnows, as Clermont-Tonnerre remarked to the Constituent Assembly,

To say that the equality of rights amounts to possessing an equal right to a very unequal portion of liberty and property belonging to everyone, is to utter an abstraction of such thinness and such silliness as to be absolutely useless.⁵

It is, moreover, a truth not lost on contemporary liberal democratic theorists, such as Charles Lindblom and Robert Dahl.⁶ Dahl, after examining Tocqueville's analysis of equality's threats to liberty, comments that we must also 'strive to reduce the adverse effects on democracy and political equality that result when economic liberty produces great inequality in the distribution of resources and thus, directly and indirectly, of power'.⁷

These sociological questions, however, intriguing and important as they are, are not directly the subject of this chapter. They embody hypotheses about complex causal connections between specific social processes and practices, the test of which is, of course, empirical and requires a comparative assessment of the evidence from different societies. Nor will I address the weighty matter of this century's experience of socialism and its bearing on the momentous question of what limits basic political liberties, on the one hand, and economic freedoms, on the other, may set to the realizability of social equality. Neither will I here examine the Marxist tradition's fateful tendency to treat basic political liberties as merely 'formal' (see Chapters 9 and 10). This is a congenital defect of Marxism in particular, not of egalitarianism in general. Here I am concerned rather with the claim, often made these days, that there is something about the very 'values' of equality and liberty that renders them incompatible, even 'incommensurable'—that, in short, equality and liberty *must* conflict and that they *cannot* coexist.

Those who make this claim sometimes do so in order to illustrate a general point about the plurality of values and the dangerous illusion

⁴ Marx and Engels, *The Communist Manifesto*, *Selected Works*, 2 vols. (Moscow: Foreign Languages Publishing House, 1962), I, p. 48.

⁵ Quoted in M. Ozouf, 'Égalité', in F. Furet and M. Ozouf (eds.), *Dictionnaire critique de la Révolution Française* (Paris: Flammarion, 1988), p. 704.

⁶ See C. E. Lindblom, *Politics and Markets* (New York: Basic Books, 1977), chap. 13 and R. A. Dahl, *A Preface to Economic Democracy* (Cambridge: Polity, 1985).

⁷ Dahl, *A Preface to Economic Democracy*, p. 51.

of supposing that it can feasibly be overcome. 'Conflicts of value', Sir Isaiah Berlin suggests, are 'an intrinsic, irremovable element in human life': we are

faced with choices between ends equally ultimate, and claims equally absolute, the realisation of some of which must inevitably involve the sacrifice of others. . . . The ends of men are many and not all of them are in principle compatible with each other.

Thus,

The extent of a man's, or a people's liberty to choose to live as they desire must be weighed against the claims of many other values, of which equality, or justice, or security, or public order are perhaps the most obvious examples.⁸

'Marxism', according to Leszek Kolakowski, 'was a dream offering the prospect of a society of perfect unity, in which all human aspirations would be fulfilled, and all values reconciled' but '[c]onflicts inevitably arise between freedom and equality' and such conflicts can 'only be mitigated by compromises and partial solutions'.⁹

On the other hand, the point of saying this may be a point about *these* values. Interestingly, it seems to be only libertarian anti-egalitarians who have this point in mind, rather than liberals or egalitarians. Thus, for Milton and Rose Friedman, 'equality of outcome is in clear conflict with liberty'; there is 'a fundamental conflict between the *ideal* of "fair shares" or of its precursor, "to each according to his needs" and the *ideal* of personal liberty'.¹⁰ More generally, for Robert Nozick, 'no end-state principle or distributional patterned principle of justice can be continuously realized without continuous interference with people's lives'.¹¹ More generally still, for Friedrich Hayek, the very term '"social justice" is wholly devoid of meaning or content' in 'a society of free men whose members are allowed to use their own knowledge for their own purposes' because 'the ubiquitous dependence on other people's power, which the enforcement of any image of "social justice"

⁸ Berlin, 'Two Concepts of Liberty', in his *Four Essays on Liberty* (Oxford: Oxford Univ. Press, 1969), pp. 167, 168–9, 170.

⁹ Kolakowski, *Main Currents of Marxism*, 3 vols. (Oxford: Clarendon Press, 1978), iii, p. 508.

¹⁰ Friedman and Friedman, *Free to Choose* (London: Secker and Warburg, 1980), pp. 128, 135.

¹¹ Nozick, *Anarchy, State and Utopia* (Oxford: Blackwell, 1974), p. 163.

creates, inevitably destroys that freedom of personal decisions on which all morals must rest.¹²

Conversely, those who deny that equality and liberty conflict, or that the conflict is irreconcilable, may either be relying on a general point about the possibility of reconciling values or restricting themselves to a specific one about the congruence of equality and liberty. In the former vein, Condorcet thought of nature as linking together 'by an unbreakable chain, truth, happiness and virtue' and as uniting 'the progress of enlightenment and that of liberty, virtue and respect for the natural rights of man': these,

the only real goods, so often separated from each other that they are even believed to be incompatible, should, on the contrary, become inseparable, as soon as enlightenment has reached a certain level simultaneously among a large number of nations and has penetrated throughout the whole mass of a great people, whose language is universally known and whose commercial relations embrace the whole globe.¹³

In the same vein, and making specific reference to the Enlightenment in this connection, Jürgen Habermas, in our own time, attacks what he calls 'decisionism' and the assumption that there is 'an impenetrable pluralism of apparently ultimate value orientations' and defends the view that 'there is a universal core of moral intuition in all times and in all societies' that stems 'from the conditions of symmetry and reciprocal recognition which are unavoidable presuppositions of communicative action' (see Chapter 11). Indeed, '[i]nsofar as we master the means for the construction of the ideal speech situation, we can conceive the ideas of truth, freedom and justice, which interpenetrate each other—although only of course as ideas'.¹⁴

In the latter vein, many contemporary liberal thinkers, notably John Rawls, propose 'a reconciliation of liberty and equality'.¹⁵ For Rawls, liberty and equality are conflicting values that can be 'lexically ordered', furnishing, as Amy Gutmann has put it, 'an integration

of liberal and socialist principle' that appeals to left liberals.¹⁶ 'Freedom as equal liberty' (the 'complete system of the liberties of equal citizenship') is basic; given that, the Difference Principle maximizing benefits to the least advantaged, and the equalizing of life chances are required for justice to be done. Whatever remaining inequalities the latter conditions permit or generate will constitute no restriction or diminution of liberty overall, for the equal liberties of the less fortunate or successful are, on this account, simply of less value to them but equal liberties none the less.¹⁷ Others go further and argue for the view that 'freedom and equality, far from being opposed ideals, actually coincide'.¹⁸ R. H. Tawney, Harold Laski, and John Dewey argued in this way. But to such arguments, libertarians typically respond, as Hayek did to Dewey, with accusations of conceptual 'jugglery'.¹⁹ I shall, in this chapter, offer an argument of a somewhat similar sort; and, as will soon be evident, I shall roundly claim that, as far as conceptual jugglery goes, it is the accusers who stand accused.

With the general proposition that values may conflict irreconcilably I have no quarrel, at least on one interpretation of that claim.²⁰ I do, however, doubt that it can ever be illuminating or perspicuous to speak of 'liberty' and 'equality' as instances of such irreconcilably conflicting values.

What I shall seek to show here is that there are various senses in which it can be claimed that equality and liberty are values in conflict, but that in none of these senses does this formulation adequately express what is meant. In each case the simplistic formula 'equality *versus* liberty' demands to be interpreted and, upon interpretation, turns out to obscure what can, and therefore should, be more accurately expressed. The first case is an instance of ideological sophistry which, while trading on our ordinary understanding of these notions, seeks to persuade us by artful redefinition of their meanings. The second deploys the economists' idea of a 'trade-off' as

¹² Hayek, *Law, Legislation and Liberty*, 3 vols. (Chicago, Ill. and London: Univ. of Chicago Press, 1976), II, *The Mirage of Social Justice*, pp. 96, 99.

¹³ A.-N. de Condorcet, *Esquisse d'un tableau historique des progrès de l'esprit humain* (Paris: Vrin, 1970), pp. 228, 9.

¹⁴ Habermas, *Autonomy and Solidarity: Interviews*, ed. and introd. by Peter Dewes (London: Verso, 1986), pp. 206–7.

¹⁵ Rawls, *A Theory of Justice* (Oxford: Clarendon Press, 1972), p. 204.

¹⁶ Gutmann, 'The Central Role of Rawls's Theory', *Dissent* (Summer 1989), p. 339. According to Gutmann, and I agree, Rawls offers 'a liberalism for the least advantaged, a liberalism that pays moral tribute to the socialist critique' (*ibid.*).

¹⁷ Rawls, *A Theory of Justice*, pp. 204–5.

¹⁸ R. Norman, *Free and Equal: A Philosophical Examination of Political Values* (Oxford: Oxford Univ. Press, 1987), p. 133.

¹⁹ Hayek, *The Constitution of Liberty* (London: Routledge & Kegan Paul, 1960), p. 424.

²⁰ See Chaps. 1 and 3, above.

applied to equality and liberty but rests upon a misreading of the internal complexity of each and of the relations between them. The third purports to characterize two contending value-standpoints in the contemporary world and prevalent in both East and West²¹—namely, egalitarianism and libertarianism²²—but fails to capture what is essentially at issue between them. I shall conclude by suggesting at least part of what this might be, and why it is an egalitarian standpoint that can plausibly claim to take both equality and liberty seriously.

(1) The first case concerns the polemical libertarian claim, already alluded to, that these concepts are by their very nature inconsistent: that, once we understand the meaning of the one, we will see its incompatibility with the pursuit of the other, that liberty overall is, as a matter of conceptual necessity, always reduced by the very pursuit of equality. As I shall now show, this result is obtained, in polemical vein, by juxtaposing definitions of each that generate the desired incompatibility.

The Friedmans call the equality that conflicts with liberty 'equality of outcome' and by this they say they mean the idea that 'everyone should have the same level of living or of income, should finish the race at the same time'. It is not explained why just these 'outcomes' should be the ones to be equalized, nor why they should be valued, nor indeed who (apart from Baben) has ever attached value to such a state of affairs. They then make a second move, identifying 'equality of outcome' with the very idea of 'fair shares for all'. But since, they say, this is not an 'objective' matter, it must be arbitrary, and cannot be rationally defended, and, so, if 'all are to have "fair shares", someone or some group of people must decide which shares are fair—and they must be able to impose their decisions on others, taking from those that have more than their "fair" share and giving to those who have less'.²³ But, of course, first, if liberty is the 'freedom to choose', and its basic form, 'economic freedom' means essentially the 'freedom to choose how to use our income', then any redistributive policy limits freedom since it will restrict some choices;

second, if equality of outcome denotes the levelling policy indicated, it will drastically restrict many such choices; and, third, if 'fairness' just means 'what some arbitrarily believe to be fair', then others, with other equally 'arbitrary' beliefs, can only be manipulated or forced to be fair.

For Robert Nozick, by definition, 'an end-state principle or distributional patterned principle of justice' and notably 'any distributional pattern with any egalitarian component' will be 'overturnable by the voluntary actions of individual persons over time'—such as 'exchanging goods and services with other people, or giving things to other people, things that the transferors are entitled to under the favoured distributional pattern'. If freedom just means non-interference with voluntary actions of this sort, then it certainly follows that, under realistic assumptions, in Nozick's happy phrase, 'liberty upsets patterns', including egalitarian patterns. But Nozick goes further. For he also claims that what makes an action non-voluntary (and thus presumably unfree) depends on whether other people's actions that limit one's available opportunities are actions they had the right to perform.²⁴ But since, on Nozick's theory, they have no right to implement an egalitarian distribution since this would be unjust, then it follows that an egalitarian policy must, by definition, violate liberty. QED.

For Hayek, the 'most common attempts to give meaning to the concept of "social justice" resort to egalitarian considerations' but the very notion of 'justice' is, by definitional fiat, individualistic: 'only human conduct can be called just or unjust . . . To apply the term "just" to circumstances other than human actions or the rules governing them is a category mistake'. 'Social justice' is a 'mirage' because it is regarded as an 'attribute which the "actions" of society, or the "treatment" of individuals and groups by society ought to possess'. Hayek's claim is that 'in a society of free men (as distinct from any compulsory organisation) the concept of social justice is strictly empty and meaningless'. A society of free men is one in which 'each is allowed to use his knowledge for his own purposes' and implementing what is misleadingly called 'social justice' would require imposing 'some pattern of remuneration based on the assessment of the preferences or the needs of different individuals or groups by an authority possessing the power to enforce it'. (And, as

²¹ See A. Walicki, 'Liberalism in Poland', *Critical Review*, 2/1 (1988), pp. 8–38.

²² The very label of 'libertarianism' has been captured from the left by free-market liberalism. For a good general account of the latter in its contemporary forms, see A. H. Shand, *Free Market Morality: The Political Economy of the Austrian School* (London and New York: Routledge, 1990).

²³ Friedman and Friedman, *Free to Choose*, pp. 128, 134, 135.

²⁴ Nozick, *Anarchy, State and Utopia*, pp. 160–4.

Hayek famously argues, '[s]o long as the belief in "social justice" governs political action, this process must progressively approach nearer and nearer to a totalitarian system'.²⁵ So the argument is essentially threefold: (i) any scheme of 'social justice' is by definition wrongly so-called; (ii) and (wrongly) so-called scheme of social justice must in practice, by definition, really be a coercively imposed pattern of remuneration based on centrally acquired and interpreted knowledge; therefore (iii) any attempt to realize social justice, and thus equality, must impinge on the unrestricted freedom of men to use their knowledge for their own purposes. So, by definition, social justice cannot be realized, and every attempt to do so must limit (and eventually destroy) freedom.

To these and similar arguments, three comments seem at this stage to be required. First, a common thread runs through these definitional victories: the contrast between a view of equality as simply the redistribution of 'things' (income, remuneration, goods and services, etc.) and a view of liberty as the availability of choice and voluntary action. But this contrast conceals what is valued by those who value equality, and why they favour redistribution, if their objective is to equalize the availability of choice and voluntary action. Second, while in their anti-egalitarian polemics, libertarians thus define equality as a wholly arbitrary, groundless, and valueless ideal that must exclude liberty, they are in fact, as we shall see, committed to the value of equality as well as liberty, both of which they interpret in a particular way. And third, these arguments *appear* to confront what non-libertarians believe about 'equality', 'liberty', and 'justice', but they do not. For whatever strengths such arguments have derives entirely from the definitions they propose of the concepts in which they are couched, in such a way as to foreclose political argument with their adversaries. Interpret those concepts otherwise—as we shall see non-libertarians do—and this part of the libertarian case loses all its force. The issue then becomes that of *how* these concepts *should* be interpreted. To this question I shall turn in the last section of this chapter.

(2) The second sense in which equality and liberty are said to be in conflict has two variants both of which are versions of the economist's idea of a 'trade-off'. The paradigm of that idea is, of course, individuals making consumption decisions: there 'trade-off' refers to

²⁵ Hayek, *The Mirage of Social Justice*, pp. 80, 31, 62, 68–9.

where they are indifferent between various combinations of goods. By extension this has suggested the idea of value-substitutability. 'The fundamental idea', according to Brian Barry,

is that although two principles need not be reducible to a single one, they may normally be expected to be to some extent substitutable for one another. The problem of someone making an evaluation can thus be regarded as the problem of deciding what mixture of principles more or less implemented out of all the mixtures which are available would be, in his own opinion, best.²⁶

Thus, from the evaluator's point of view, the 'extent' to which, say, liberty is attained can be traded off, or substituted for, the 'extent' to which equality is attained.

A second and distinct application of the 'trade-off' idea concerns not 'value-substitutability' but what, following Le Grand, we may call 'production-substitutability', that is, 'the ability of a welfare programme or of other aspects of the economic and social system to deliver different combinations of objectives'.²⁷ Here what is at issue is not how evaluators mix principles or substitute values but rather the feasibility of meeting alternative objectives. What are the various combinations of 'extents' of liberty and equality that are feasible? How much of one must be sacrificed to achieve a given level of the other? Obviously, the determinants of a system's productive capacity, in this sense, will be determined partly by material and physical factors, and partly by prevalent beliefs and attitudes and, indeed, evaluations.

These two ways in which there may be said to be a trade-off between equality and liberty share a common feature. They both imply the following picture: that there are discrete, free-standing, and independently characterizable 'values'—in this case 'equality' and 'liberty'—the extent of whose realization can in each case be measured according to some scale that enables people to express a preference between such 'extents', or indifference between them; or, alternatively, economic and social policies or institutions or systems can be seen as capable of producing different combinations of such 'extents'. How plausible is this picture?

The first difficulty is that each of these values is internally complex

²⁶ B. Barry, *Political Argument* (London: Routledge & Kegan Paul, 1965), p. 6.

²⁷ J. Le Grand, *Equality versus Efficiency: The Elusive Trade-Off*, Discussion Paper: Welfare State Programme, 36, Suntory International Centre for Economics and Related Disciplines (London: 1988), p. 3.

in more than one way. Thus liberty or freedom is not only, first, freedom to act on one's present desires and beliefs but also, second, freedom to act otherwise, and, third, freedom to examine and, if one's judgement so requires, revise one's desires and beliefs. Of course, the third freedom requires the first or second, if it is to be effective, and thus to be worthwhile, but you can have any without the others and still be to that extent free.

Moreover—and this is a deeper complexity that spells trouble for any scale on which liberty is to be measured—the range of options that constitutes the extent of one's freedom is not, so to speak, a brute fact of the matter on which all rational persons must agree. For individuating 'options' is a matter of contestable judgement and, worse still, assessing the *range* of available options inevitably 'requires no less contestable judgements about which options are significant' and how wide the differences between them are.²⁸ Some choices or actions we may be free to make or perform 'count' more than others in the assessment of how much overall freedom we have. That some of these—such as Rawls's 'basic liberties'²⁹—may be uncontentiously freedom-enhancing does not alter the general point: that the counting cannot be done without judging what counts. And similarly, in comparing degrees or extents of freedom, what counts is the difference that different options make. In short, assessments of the extent or degrees of the realization of freedom are unavoidably contaminated by judgements about what matters.

The idea of equality is not less complex. Consider various recent attempts to specify a yardstick for equality: that is, to specify in a perspicuous way what it is that justice requires all to have equally if the value of equality is to be realized. The simplest—and most naïve—answer is welfare or utility, whether conceived as happiness or as the fulfilment of desire, but this answer fails, as Rawls and others have shown, above all in the face of the objection that it would unjustly compensate those with expensive tastes (or, more precisely, those with expensive tastes for which they could be held responsible).³⁰ All the other, more plausible current attempts to

specify what is fundamental to equality—to answer Sen's question 'Equality of What?'³¹—clearly exhibit what is to be equalized as irreducibly heterogeneous.

Rawls takes *primary goods* as the yardstick for equality. Equality of primary goods is the baseline to which the Difference Principle is applied. He characterizes primary goods as 'liberty and opportunity, income and wealth, and the bases of self-respect' and elsewhere as 'rights and liberties, opportunities and powers, income and wealth'.³² For Dworkin, it is *resources*, including within these material resources, and mental and physical capacities—'those features of body or mind or personality that provide means or impediments to a successful life'.³³ Sen concentrates on basic *capabilities* which are the 'real opportunities faced by the person' to achieve a range of 'functionings' that are part of a normal life, the deprivation of which may fail to register on a scale of utilities because of adaptive preferences (as examples Sen cites those involving longevity, nourishment, basic health, avoiding epidemics, being literate, etc., and, within the richer countries, the ability to entertain friends, be close to people one would like to see, take part in the life of the community, live a life without being ashamed of one's clothing, and those involving cultural and intellectual pursuits, vacationing and travelling, etc.).³⁴ Arneson proposes *opportunity for welfare*³⁵ and, most recently, Cohen has proposed *access to advantage*, which is intended to capture what Sen intends by capabilities but takes 'advantage' to include also states of persons that are not capabilities—such as being well-nourished and housed or free, say, from malaria—and are reducible neither to their goods or resources (e.g. their food supply) nor to their welfare level.³⁶

What all these answers, separately and together, show is that the aspects or features of individual persons' conditions which plausibly

²⁸ C. Taylor, 'What's Wrong with Negative Liberty?' in A. Ryan (ed.), *The Idea of Freedom: Essays in Honour of Sir Isaiah Berlin* (Oxford: Oxford Univ. Press, 1979), p. 61.

²⁹ Rawls, *A Theory of Justice*, p. 61.

³⁰ See G. A. Cohen, 'On the Currency of Egalitarian Justice', *Ethics*, 99 (July 1989), pp. 906–44.

³¹ See Sen, 'Equality of What?' in S. M. McMurrin (ed.), *The Tanner Lectures on Human Values*, (Salt Lake City, Utah: Univ. of Utah Press, and Cambridge: Cambridge Univ. Press, 1980), vol. 1.

³² Rawls, *A Theory of Justice*, pp. 62, 92.

³³ Ronald Dworkin, 'Equality of Resources', *Philosophy and Public Affairs* 10 (1981), p. 303.

³⁴ Sen, *Commodities and Capabilities* (Amsterdam, New York, and London, North-Holland, 1985), pp. 5, 21, 16.

³⁵ R. Arneson, 'Equality and Equality of Opportunity for Welfare', *Philosophical Studies*, 55 (1989), pp. 77–93.

³⁶ Cohen, 'On the Currency of Egalitarian Justice'.

attract the requirement that they be rendered equal are inherently diverse: they have different causes and require compensation in different ways. To measure the 'extent' to which equality overall is realized is, then, to aggregate different features of people's circumstances and it is not easy to see how to decide which of these 'count' more or less in any such assessment. Moreover, liberties are, on all these accounts except the first, a crucial part of what is to be equalized, and therefore the contamination alluded to in the case of liberty extends also to the measurement of equality.

This leads me to the second, and more serious, objection to seeing liberty and equality in a trade-off relation: namely, that they are not discrete, independently characterizable values. Of course, one is an attribute of the condition of individuals or groups; while the other characterizes the relation between their conditions. The point, however, is that, to some very large degree, the *same aspects* of their condition are at issue in both cases. For as the analyses of what is to be equalized reviewed in the last paragraph show, liberty is, under one or another guise, in all cases but the first, a constitutive part of the *equalisandum*. All the plausible answers to Sen's question include as a central component those aspects of the circumstances of persons that maintain or expand their range of significant choices, and almost all explicitly focus on opportunity. Indeed Sen goes so far as to describe his favoured notion of a person's 'capabilities'—'the various alternative functioning bundles he or she can achieve through choice'—as 'the natural candidate for reflecting the idea of freedom to do'. His central concern is with those human interests he calls 'advantage' (as opposed to 'well-being'). 'Advantage' is a notion which 'deals with a person's real opportunities compared with others' and is a "freedom" type notion.³⁷ All, though with differing emphases, see freedom—in the sense of the availability of significant choices between options of desire, belief, and action—as integral to equality.

I have shown that equality and liberty are internally complex and interdependent values. How do these features bear upon the proposition that the one must be traded off against the other, that in this sense equality and liberty must conflict? Let us examine that proposition more closely. As it stands, it is radically incomplete, for it leaves

³⁷ Sen, *Commodities and Capabilities*, pp. 27, 5, 6. Also id., 'Rights and Capabilities', in his *Resources, Values and Development* (Oxford: Blackwell, 1984), p. 316.

open whose equality, whose liberty, what is equalized and which liberties are in question. Assuming some population, for example the citizens of a state, as the community of reference, the idea of equality suggests that all its members, or citizens, are, in some respect, equal. So the proposition can be made more precise: to say that equality must conflict with liberty is to say that equalizing some aspects of the conditions of all must reduce the liberty or liberties of some, or all. Or, more precisely still, that to render all members more equal in respect of some set of diverse goods, including some set of liberties, is to reduce the extent of some set of liberties of some or all.

But from internal complexity it follows that both the equalization and the reduction can only be identified, in the first place, on the basis of judgements about which goods and which liberties 'count', and which count more than others. And from interdependence—that is, the centrality of liberty among the conditions to be equalized—it follows that what is at issue here is, largely, a change from one distribution of (some set of) liberties to another. To equalize liberties is not, of course, always plausibly to reduce them. Indeed, there are plainly liberties—such as freedom of speech—that can be seen as public goods, that is, goods used by all in such a way that use by one does not detract from use by another. Let us, however, suppose that the postulated relation holds, for whatever reason.

There are then six possibilities. As (some set of) liberties for all become more equal, there will be a reduction in (i) the same liberties of some, (ii) other liberties of some, (iii) the overall liberty of some, (iv) the same liberties of all, (v) other liberties of all, and (vi) the overall liberty of all. Possibility (i) describes the case of effective property rights, or use rights; and (vi) the extreme Hayekian thesis of the 'road to serfdom'. But the important point is this: that in all cases, except for the extreme case of (vi), the verdict on the prospects for liberty after equalization remains open. This is so *even if*, as here assumed, equalization reduces the liberties asserted in (i) to (v), since these at most show the existence of a trade-off between the liberties indicated. The verdict on liberty awaits an assessment of the worth of all those liberties that survive or are unaffected by the postulated trade-offs. If these are basic or urgent, then equality need not have reduced liberty overall. And this result will hold for two reasons: that measuring liberty cannot, as we have seen, be conducted independently of assessing the worth or significance of what one is free to do or be; and that the trade-offs, when they hold, affect only the liberties

concerned, leaving others unaffected. And, of course, egalitarians argue, further, that the equalizing of conditions, including liberties, enhances the scope of and thus gives reality to other liberties that would otherwise be worth little.

Thus, in general, what some misleadingly characterize as a trade-off between liberty and equality typically turns out to be a conflict between claims whose specificity this formula fails to capture. Moreover, the demand for liberty relates to the provision of what is of value; the demand for equality to the distribution of that provision. These demands exhibit different concerns: that of making a life or lives go better, and that of fairness across lives. But in political conflicts, the claims that are in conflict usually each embody *both* concerns: the claims conflict because they spring from different views about what would meet both. The notion of 'rights' neatly expresses this double concern: we claim as our 'rights' what will fairly protect our interests. Perhaps, indeed, part of what makes conflicting claims 'political' is that they are not simply conflicting demands expressing naked interests but conflicting *claims* that, as public justification, invoke some notion of fairness. So it is no surprise that the natural way to express political conflicts is often as a clash between rights to various liberties: welfare rights versus taxpayers' rights, tenants' rights versus the right to market freedom of landlords, parents' right to choose versus the educational rights of deprived children, the right to health insurance versus the right to opt out, and so on. Consider the case of the right of bequest. During the French Revolution, this right was debated in the Constituent Assembly. It was denounced by Pétion, in the name not of equality but of rights: to leave fathers and mothers the freedom to favour one or another of the children was to give them the power to produce active or inactive citizens, those who were eligible and those who were not: it was 'to deprive numberless citizens of their political rights'.³⁸

I conclude that the 'trade-off' interpretation of how equality and liberty may be said to conflict is, in the first place, an inaccurate account of how we evaluate alternative systems or institutions or policies. We do not 'weigh' alternative amounts of the value of equality against amounts of the value of freedom and decide which mixtures we prefer. Rather we judge the impact of a particular programme or policy, say, as a particular distribution of various

³⁸ Cited in Ozouf, 'Égalité', p. 705.

goods, including various liberties. We do so in the light of our political morality, which will embody a particular interpretation of both liberty and equality and a basis for deciding which liberties and which claims to liberty have priority. And, in the second place, when assessing the productive capabilities of social and economic institutions, the idea of production-substitutability of equality and liberty makes little sense. For institutions do not produce 'quanta' of equality and liberty, but rather feasible sets of valued outcomes that, among other things, distribute different liberties in different ways. These will have different values depending upon different construals of both these internally complex and interdependent values.

(3) Perhaps finally then, we should interpret the claim that equality and liberty conflict as a claim about contending interpretations of both, from the most egalitarian to the most libertarian? Perhaps, in particular, it is a claim about the conflict between what egalitarians favour and what libertarians favour? Note that both proclaim their allegiance to liberty, while only libertarians tend to say that they are 'against equality'.³⁹ In the last section of this chapter, I shall argue that what libertarians are really against is non-libertarian equality, while egalitarians are unsatisfied with merely libertarian liberty.

Values conflict but they also unite. According to Max Weber, the ultimately possible attitudes towards life are irreconcilable, and hence their struggle can never be brought to a final conclusion. . . . According to our ultimate standpoint, the one is the Devil and the other the God, and the individual has to decide which is God for him and which is the Devil!⁴⁰

yet from Durkheim we learn that a society's unity is made by 'collective sentiments and collective ideas' and that under modern, post-Enlightenment conditions it is the morality of individualism, 'the religion of the individual', centering on liberty and equality, which is 'the sole link which binds us one to another' and has 'penetrated our institutions and our customs'.⁴¹ The paradox is resolved when we see that Weberian value pluralism can manifest itself through divergent interpretations of abstract Durkheimian

³⁹ See W. Lewin (ed.), *Against Equality* (London: Macmillan, 1983).

⁴⁰ Weber, 'Science as a Vocation', in H. H. Gerth and C. W. Mills (eds.), *From Max Weber* (London: Routledge & Kegan Paul, 1948), p. 148.

⁴¹ E. Durkheim, 'Individualism and the Intellectuals', trans. in *Political Studies*, 17 (1969), pp. 27, 22. Cf. the Durkheimian Louis Dumont's remark that 'Our two cardinal ideals are called equality and liberty' (*Homo Hierarchicus: The Caste System and its Implications* (London: Paladin, Granada, 1972), p. 38).

values. Thus 'liberty' and 'equality' unite us at a very high level of abstraction; what divides us is the interpretation of what they mean. Ask the questions 'what must be equal for opportunity to be equal?' 'where do the sources of unfreedom lie?' and so on, and apparent consensus dissolves into politically real dissensus. (This is, I think, where Michael Walzer's notion of 'shared understandings' and common meanings goes wrong;⁴² it postulates value consensus at the wrong level). To which we may add that the abstract unity often serves to conceal, and thus tame, real disagreements. So Christopher Jencks, after distinguishing between five meanings of 'equality of opportunity', observes that it is 'an ideal consistent with almost every vision of a good society' and suggests that

without common ideals of this sort, societies disintegrate; with them, conflict becomes a bit more muted. But the constant reiteration of such rhetoric also numbs the senses and rots the mind. This may be a price we have to pay for gluing together a complex society.⁴³

I assume, then, that 'we' agree in valuing both equality and liberty—where 'we' means at least all those contemporary citizens within the political spectrum that ranges from libertarians to egalitarians (for the rest of this chapter I shall use 'we' and 'our' in this technical sense). What, then, can be said at the most abstract level about our shared *concepts* of equality and liberty, alternative interpretations, or *conceptions*,⁴⁴ of which divide us politically? In valuing liberty and equality, what is it that we value? In the case of liberty, it is, I suggest, being in control of one's life, or as much of one's life as possible. That means leading one's life, so to speak, from the inside⁴⁵—according to one's own beliefs, desires, and purposes; but it also means being able, and in a position, to examine and, if appropriate, revise these. And thirdly, it means being able, and in a position, to pursue, over some significant range, alternative paths, real options, substantial or genuine choices, so that one is not forced into living a particular life. Freedom, in short, is what makes an *autonomous* life possible, and autonomy is what gives freedom its value. Freedom is the name for the various conditions of autonomy,

⁴² Walzer, *Spheres of Justice* (Oxford: Martin Robertson, 1983).

⁴³ Jencks, 'What Must be Equal for Opportunity to be Equal?' in N. E. Bowie (ed.), *Equal Opportunity* (Boulder and London: Westview Press, 1988).

⁴⁴ See Rawls, *A Theory of Justice*, pp. 5–6.

⁴⁵ See W. Kymlicka, *Liberalism, Community and Culture* (Oxford: Clarendon Press, 1989), p. 12.

which, we will agree, must at least include the absence of manipulation and coercion, the availability of adequate information and alternative ideas and conceptions of the good, and the absence of removable impediments to or constraints upon a significant range of feasible actions.

As for equality, what we value is, I think, the root idea that each person's essential interests be given equal weight or consideration, that there be no *discrimination* between individuals or groups in respect of those interests (I use 'discrimination' here in a sense that does not necessarily imply that for it to occur there must be an agent or agents intending to discriminate. Whether it does or not—whether there can be 'structural' or institutional discrimination—is another of the questions that divide 'us'). Everything, of course, hinges on how these 'essential interests' are to be interpreted. As Thomas Nagel has shown,⁴⁶ there is a range of such interpretations. A utilitarian counts all a person's interests (understood as his enjoyments or his preferences) as essential, giving them equal weight in his calculus; rights theorists count only those basic interests that rights protect (though they may differ about what these are); and the 'egalitarian' gives priority to those that constitute an urgent claim on resources. To these we might add the communitarian, for whom certain kinds of social relations and prevailing attitudes are public goods in which all can be said to have an essential interest. Equality, in short, is the condition of *non-discrimination* and it is of value because our essential interests matter equally. We further agree, I think, that such non-discrimination requires the elimination of those disadvantages that harm essential interests and for which those who suffer them are not responsible.

If these—the conditions of autonomy and non-discrimination—are indeed 'values' that unite us what then divides us, and, more particularly, libertarians from egalitarians? Not, of course, a commitment to liberty as opposed to a commitment to equality, for both are committed to both, but, rather, differences about what the conditions for autonomy are and what it is not to discriminate.

For a libertarian, liberty is conceived as the absence of certain, narrowly defined constraints, and so a free life is compatible with extremely narrow options, provided that these are not constrained in

⁴⁶ Nagel, 'Equality', in his *Mortal Questions* (Cambridge: Cambridge Univ. Press, 1979).

inappropriate ways. Thus for Hayek freedom is 'the state in which a man is not subject to coercion by the arbitrary will of another or others'.⁴⁷ In similar vein, Joseph and Sumption argue that

Freedom consists in the absence of external coercion, and no man is unfree unless other people intentionally use coercion to prevent him from doing something which he is able and willing to do and which could be done without encroaching on the freedom of others.

Thus '[a] person who cannot afford to buy food may well have a justifiable grievance which ought to be rectified politically, but it would be misleading [*sic*] to describe his grievance as lack of freedom'.⁴⁸ And for Nozick, a worker 'Z', 'faced with working or starving', nevertheless 'does choose voluntarily' if 'what limits his alternatives', namely, the actions of other individuals from A to Y, are done 'voluntarily and within their rights'. For, according to Nozick,

A person's choice among different degrees of unpalatable alternatives is not rendered involuntary by the fact that others voluntarily chose and acted within their rights in a way that did not provide him with a more palatable alternative.⁴⁹

For libertarians like these the conception of liberty diminishing constraints is maximally narrow: they must be external, coercive, arbitrary, intentionally imposed by particular persons or sets of persons, who (according to Nozick) are acting outside their rights. All else that restricts our options, according to such views, it is 'misleading' to call lack of freedom and is, presumably, therefore compatible with leading an autonomous life.

Libertarians have a similarly constricted view of what constitutes non-discrimination, or the equal consideration of essential interests. For, in the first place, they hold a view of those interests that limits them to only those interests that are protected by certain rights—more particularly property rights and, as Cohen makes clear in respect of Nozick, above all the right to self-ownership.⁵⁰ And secondly, they have a very restricted notion of disadvantage for which its sufferers are not responsible, or 'involuntary

⁴⁷ Hayek, *The Constitution of Liberty*, p. 11.

⁴⁸ K. Joseph and J. Sumption, *Equality* (London: John Murray, 1979), p. 49.

⁴⁹ Nozick, *Anarchy, State and Utopia*, pp. 263–4.

⁵⁰ Cohen, 'Nozick on Appropriation', *New Left Review* 150 (1984), pp. 89–107.

disadvantage'⁵¹ that calls for compensation or rectification. So, for example, in respect of educational opportunity, they will stop with the mere removal of 'formal' barriers to entry and will reject what Jencks calls the 'humanist' idea that people may suffer disadvantage from their environment or from their genes and that compensation in the form of additional resources is therefore in order; least of all will they accept that 'disadvantage' and 'opportunity' could be interpreted to include the lack and possession of the appropriate attitudes and beliefs that would render individuals 'internally' able to seize 'external' possibilities. More generally, libertarians see inequalities of resources in general as an assumed 'normal' or 'natural' background against which rights and opportunities are deemed equal provided that certain minimal conditions of access and competition are in operation.

Egalitarians can respond to these various conceptual restrictions by asking various questions. Why, they will ask, should liberty-diminishing constraints be confined to those that are deliberately imposed by particular persons or sets of persons, and, moreover, arbitrarily, coercively and unjustly? Are lives not also rendered less autonomous by unintended actions, by social relationships and by impersonal and anonymous processes that may radically restrict people's alternatives of thought and of action, and may even shape their beliefs and preferences; and also by the *absence* of facilitating conditions, by the lack of resources, including skills and even motivations? Why, they will further ask, should we conceive of their 'essential interests' as what narrowly conceived rights protect and narrowly conceived opportunities promote? Why should they not include basic needs, or the conditions of normal 'functioning', and their access to wider opportunities and a fuller life, and why should these not have a more urgent claim on a society's resources to the extent that they remain unmet? And why, finally, should the domain of disadvantage that is beyond their control—comprising luck, on the one hand, and exploitation, on the other⁵²—be thought of as the 'natural' background to the practice of non-discrimination, or equal consideration, rather than as the field within which it should be practised? Libertarians do not ask such questions but rather appeal

⁵¹ Id., 'On the Currency of Egalitarian Justice', p. 916.

⁵² Ibid. 908.

to various doctrines⁵³ whose combined effect is to close off the political debate where it should begin: over the manifold and complex conditions under which both autonomy and non-discrimination can be enhanced in contemporary societies. They seek, rather, to win the argument by blocking further argument, by capturing the meanings of words—notably 'liberty' and 'equality'—in such a way that these questions no longer arise. Egalitarians, by contrast, make ambitious, and doubtless contestable, claims about what such conditions are. But they at least address the questions and, for that reason alone, they can plausibly claim to take both liberty and equality seriously.

⁵³ I have in mind, in particular, the methodological doctrine—methodological individualism—which proscribes all explanations not couched wholly in terms of facts about individuals; a doctrine of property rights which derives from individuals' ownership of their personal powers the right to indefinitely unequal resources as a result of their use; and a doctrine about the nature of society as a 'spontaneous order' (Hayek), of which the market is allegedly the archetype, unamenable to unified direction or indeed rational planning of any kind.

5 The Use of Ethnocentricity

'The emergence of the individual' is a grand theme that has preoccupied a wide range of thinkers in the West for the last two centuries, ever since Joseph de Maistre spoke in 1820 of 'this deep and frightening division of minds, this infinite fragmentation of all doctrines, political protestantism carried to the most absolute individualism'¹ and Tocqueville, noting that 'individualism' was 'a recent expression to which a new idea has given birth', observed that it was 'of democratic origin and threatens to develop in so far as conditions are equalized'—a 'deliberate and peaceful sentiment which disposes each citizen to isolate himself from the mass of his fellows and to draw apart with his family and friends', abandoning 'the wider society to itself'.²

The semantic history of the very term 'individualism' reveals a rich variety of accumulated meanings, following initially divergent national paths³ but all these usages display a common concern with identifying some distinctive set of traits, principles, or ideas that are, it is usually supposed, constitutive of modernity. These constitutive features of modernity were, of course, variously conceived: by Maistre as the thought of the Enlightenment and revolutionary politics, by Tocqueville as the egalitarian spirit of democracy, by Weber as rational capitalism, by Durkheim as organic solidarity, by Meinecke as Romanticism ('this deepening individualism of uniqueness . . . a new and more living image of the State, and also a new picture of the world'),⁴ by Dicey as utilitarian liberalism, by Walt Whitman as the progressive force of modern history, reconciling

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¹ J. de Maistre, 'Extrait d'une conversation', in *Œuvres complètes*, 14 vols. and Index (Lyon and Paris, 1884–7), xiv, p. 286.

² A. de Tocqueville *De la démocratie en Amérique* (1835), bk. II, pt. II, chap. 2, in *Œuvres complètes*, ed. J.-P. Mayer (Paris: Gallimard, 1951), i, pp. 104–6.

³ See my *Individualism* (Oxford: Blackwell, and New York: Harper & Row, 1973), pt. I.

⁴ F. Meinecke, *Die Idee der Staatsräson* (1924), in *Werke* (Munich 1957–62), i, p. 425.