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The individual and the state: between libertarianism and egalitarian liberalism

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Chapter 1: Introduction

Imagine a hypothetical situation wherein two groups of slaves belong to one state where only two slave owners exist – I will call this state Slaveland[1]. The first group of slaves have a generally benevolent master, while the second group has a cruel master. Notwithstanding, the master of the first group is still a slave owner, just as the harsh master is, and is also protected by Slaveland Law to treat his slaves as he pleases. In other words, he can give them more work and make their work more challenging, he can beat and punish them as and when he pleases and for whatever reasons he sees fit and he can decide the quality and rationing of their meals, etc. He has what some might call discretionary power, which is the kind of power given to a ruler by the state, to decide for himself, using his own judgement, when and how to act towards his citizens. But let us suppose that for the most part, and in comparison to the second group of slaves, he leaves them alone and does not interfere much with their daily activities, except of course when he needs some work done in and around his property.

So, where the first group can decide, for the most part, how to use their time during the day, the second group of slaves has their entire work schedule decided for them and has to be involved in laborious house chores with little time in between to rest and take breaks. Now according to the negative view of liberty, which entails and prioritises non-interference, we are committed to saying the first group of slaves enjoys greater freedom than those in the second group.

Is it correct to say that they enjoy any freedom at all, considering the fact that they are slaves? One would imagine that there is more to being free than simply not being interfered with in this case and that although the slaves in the first group are "better off" in some ways; they are not necessarily enjoying freedom. But what does *being free* or *enjoying liberty* entail and what is it that is so important about being free as an individual?

The hypothetical situation described above resembles, in many ways, the relationship between the individual and the state and the options present for how this relationship could possibly operate. It also raises important questions for how an ideal relationship between the individual and the state should operate, such as: What powers should the state give to those responsible for the citizens' needs? What does it mean to be better off with regards to individual liberty? How should the relationship between the individual and the state operate if

[1] An illustration commonly used by Republicans, which I have adapted from Lovett, F. 2014. "Republicanism'', *The Stanford Encyclopedia of Philosophy* , Zalta, E.N. (ed.)

we take liberty to be a fundamental political value? The above considerations have lead me to investigate what this relationship should look like, and what individual liberty consists in.

In the realm of political philosophy and ethics there is widespread agreement amongst proponents of liberalism that individual liberty is an important and fundamental political value (Berlin, 1958)[2]. In some instances, more particularly in contemporary liberal theories, it is liberty, along with other social and political ideals that are considered fundamental. Many people in ordinary settings outside the realm of political philosophy and ethics also endorse liberty or freedom as something important – they would not want their liberty to be taken away from them, nor would they want to be deprived of liberty. Yet the layman usually has superficial reasons for endorsing liberty. He may say the reason liberty is important is, "So that I can do as I please, eat what I want and go where I want." For the older liberal theorists such as John Locke and Rousseau, and the more contemporary theorists, freedom is conceived of, respectively, as being a natural right and as normatively basic (Ivison, 2011: 12). That is to say, their *a priori* assumptions tend to favour freedom as a fundamental political value. If this is the case, it follows that restrictions on liberty must be justified, especially by those who limit liberty through coercive means. The fundamental liberty principle, which is behind the primacy of protecting and ensuring our individual liberty, is what has spurred debates around this topic. It is the general idea that liberty is a basic and fundamental right for man, yet man is governed by the state and so in order to ensure that man has his liberty, the power of those who govern should be limited. Furthermore, what has added on to the debate is the attempt by some to reconcile liberty with equality (Dall'Agnol, 2006).

Interestingly, it is not always the case that societies value liberty over the other important values of a state, such as equality or the greater good for society as a whole or even economic growth. In China, North Korea and Russia, people are generally more willing to give up individual liberty for other important values. Liberty is not always what guides public policy-making, nor is it always the primary goal of the state. However, an overwhelming number of modern societies do seem to value liberty.

The political setting in which individuals find themselves in could have a lot to do with whether or not they enjoy liberty, but what matters for liberty is also important in determining whether or not liberty is attained in a particular society. The way in which people within a society interact with one another and with the state in terms of power relations also has an influence on whether or not people are free. Think, for example, whether one is freer in the work relations we are familiar with in modern times today, where we have set work hours a day, employment equity acts, a code of conduct at work, labour unions, etc. or whether slave conditions guarantee more liberty. Does it matter how we interact with those who are said to have power over us? Which external and internal factors affect whether or not we are free? Is it just for the state to interfere in our lives at all? These are some of factors I take as important in determining where and under what conditions liberties can be realised best.

[2] Theorists such as Locke, Hobbes, Rousseau, Kant, as well as more contemporary theorists such as Rawls, Nozick and Dworkin accept liberty as a primary political value.

The above considerations and the brief discussion of the centrality of individual liberty to liberals, as well as how this might be in conflict with the role of the state has subsequently led me to the following broad research question: "Can individual liberties best be realised under an egalitarian liberal state or under a libertarian state?"

I am particularly interested in how the operation of power relations within different political settings impacts where liberties are best promoted. I will examine conceptions of power, focusing particularly on Michael Foucault's analysis, as a way of determining whether an egalitarian liberal state or a libertarian state can best realise individual liberties. Therefore, my more particular question asks,

> *"How, through an analysis of conceptions of power, can we determine whether individual liberties are realised better under egalitarian liberal states or under libertarian states."*

My research report will also need to establish and make explicit where the connection between power relations and individual liberties lie. If my aim is to explore what effect conceptions of power can have on the traditional Rawls-Nozick debate, as well as the more recent debates, it will need to be shown what relevance any in-depth talk of power might have on the project. Once I have shown there to exist a worthwhile connection between conceptions of power and liberty, I will also investigate what mechanisms of power manifest themselves in egalitarian liberal states and in libertarian states, respectively, to promote liberties. Another pertinent question to my investigation is whether the ways in which power is exercised in each state hinders or promotes individual liberty. By looking specifically at Foucault's notion of power and by analysing the debate from the perspective of power relations (between the individual and the state), as well as by reconfiguring the ways in which power is conceptualised, I believe interesting interpretations and conclusions can be drawn.

I take for granted that liberty is an important social and political value, as it is preferable to have liberty than not to have liberty. Also, I am working within a liberal framework, where liberty is perceived of as a fundamental value. It is not within the scope of my research report to argue for liberty as a fundamental political value, but I do attempt to explain why liberty is valuable, if we are to assume that it is. In taking for granted the importance of liberty, I do not dispute the fact that other important political values exist. One limitation of my research report is that it is not as oriented toward concrete action as I would like it to be. What I do is engage in a theoretical debate, which looks into the debates around the issue of liberty and the limits of power and examine what an in-depth analysis of power relations possibly adds to

the literature. Despite the fact that I take a mostly normative approach in my research report, in that I investigate how the relationship between the individual and the state ought to be, I am inclined to agree with Guess (in Ivison, 2011: 12) that "we should not start with how people ought ideally or rationally to act, desire, or value but with the way 'social, economic, political, etc. institutions *actually* operate in society at some given time, and what really does move human beings to act in given circumstances'"[3]. While I do not adopt this approach fully, I recognise it throughout and attempt to make use of it to add to the traditional Rawls-Nozick debate. I do this, particularly, by using Foucault's historical account of power. There is a hint of political realism in Foucault's analyses in that it "puts the acquisition, distribution, and use of power – understood in the broadest sense of the term – at the heart…" (Ivison, 2011: 11). Also, in many ways, Foucault provides us with a theory grounded in what was *actually* happening in society at different points in history, rather than what ought to have been happening or what was thought to have been happening.

Much work has been done on this debate, however it would definitely contribute to contemporary literature on the topic to continuously shift and change the manner in which the debate is approached and reinterpreted.

Although many political philosophers have debated whether a minimal state under libertarianism or whether a more egalitarian liberal state which ensures the welfare of its citizens is the better option for promoting individual liberties, an in-depth discussion of power relations has rarely featured in the discussion. It is to my knowledge that the traditional and more current debates on liberty have not given an in-depth account of the relation between power relations and individual liberty. In other words, they have not given much attention to power relations as a way of analysing where liberty can best be realised in a state. Rather, they have spelled out under what conditions the state may legitimately exercise its power over its citizens and what implications this may have on individual liberty (Mill, 1859, Nozick, 1974, Wolff, 1990). They have also based much of their theories and scepticism of state power on assumptions about power, which I argue have, especially in modern times, been inaccurate or incomplete. So although most theorists on this topic have made mention of state power and its limits, they have not evaluated or given a critical analysis of the conception of power they are working with and of the impact this has on their views.

[3] Emphasis added in quotation.

According to my reading of the traditional debate between liberal egalitarianism and libertarianism, power already underlies and influences the debate one way or the other. By bringing to the forefront a discourse on power, I believe a more accurate interpretation of where liberty is best realised can be made.

There are interesting connections which can be made between how we conceive of power and what role we feel the state should play in promoting our rights, and more precisely; our liberty. In my research report I attempt to show that if one reconfigures their conception of power, adjusting it to a more accurate description of modern reality and if this new conception of power is correct, then one ought to reach a different conclusion about where liberty can be promoted. In *Anarchy, State, and* Utopia (1974: Preface ix), when Nozick asserts that "So strong and far-reaching are these rights that they raise the question of what, if anything, the state and its officials may do. How much room do individual rights leave for the state?" I take this as an instance of acknowledgement that a connection between liberty and power relations exists. A similar acknowledgement is made in John Stuart Mill's project, in *On Liberty* (1859), to define the "…nature and limits of the power which can be legitimately exercised by society over the individual". What hasn't been done, and what my research will do is to unpack what already underlies the debate and to provide an interpretive analysis of the implications that such conceptions have on our understanding of liberty. I have not mentioned Foucault at length in this introduction, but along with the theory of power he provides us with, he also explains the ways in which resistance to power change as the different conceptions of power change. In my research's attempt to interpret the debate on liberty in a Foucauldian way, I also explore the notion of resistance and parallel its importance to that of liberty – of being a free individual within a governed society.

It is important to understand the key terms that will be employed in my research and also the ways in which these terms will be used. Firstly, in discussing liberty I specifically refer to individual civil or political liberties, which can also be referred to as freedom. I will not be discussing liberty or freedom in the metaphysical sense, where issues of whether or not I have free will and whether or not my actions are determined are relevant. "Liberty", as I use it, refers to the basic civil liberties.

It is often thought, especially by libertarians, that authority stands in opposition to liberty. Many political philosophers within the liberal tradition make mention of how the state's power should be limited so that individual liberties can be maximised. I take it that

underlying these assumptions about the adverse relationship between liberty and state power, as I have previously stated, is a certain conception of power, which influences what the relationship between the individual and the state should look like. In the most general sense, "power" concerns the ability to influence the actions of others, which means that power need not be directly linked to coercion or force – the context in which it is used or the manner in which we conceive of it is what gives the term its force as denoting something positive or negative. Influence, too, can be both positive and negative and so power, in the way I mean it, is something which can be restricting but also enabling. I use Foucault's conception of power, which is broken up into two parts; namely, an old conception of power as juridical and modern power, which is comprised of both discipline and bio-power. These concepts will be explained in greater length in my thesis but for the purpose of this introduction, I will give a general account of the distinction. The old conception of power is negative and repressive, while the modern account of power is positive and productive. The distinction between the two conceptions of power is critical to my interpretation of where liberty can best be realised, since I argue that the answer to my research question turns, partly, on introducing a discourse on power.

In my thesis I explain these conceptions of power at length and explore the mechanisms they employ. By drawing connections between these conceptions of power and the ways in which the role of the state manifests itself in libertarian and egalitarian liberal states, I will be able to evaluate which can best realise individual liberty, although my final conclusion need not consist of a one or the other decision.

The traditional Rawls-Nozick debate, although addressing a different question to mine; namely, "What is justice and what are the conditions for a just society?" has embedded within it the importance of promoting liberties. For both Rawls and Nozick, liberty is a primary political good or ideal which should be ensured for every individual. I will draw on the relevant parts of both of these theories in order to flesh out what mechanisms each would employ in order to safeguard liberties for individuals. The egalitarian liberal view, defended by its most prominent contemporary advocate John Rawls, attempts to reconcile the values of equality and liberty and argues that the promotion and realisation of liberties requires more involvement from the state in terms of law-making and redistribution of resources, for example. In contrast, the libertarian view, for which Robert Nozick is its most prominent proponent, defends a minimal state and argues that inequalities are permitted as long as liberties and property rights are respected. This literature review sets out to highlight what

others have said in light of my research question, even though they have not attempted to evaluate it in the way I will.

On the one hand, authors such as John Rawls (1999), Ronald Dworkin and James Sterba (2010) would argue that liberties can best be realised under egalitarian liberal societies, although each arguing differently for their positions. Sterba actually argues within the libertarian tradition but because he argues for welfare rights, his arguments imply adherence with egalitarian principles, similar to that of Rawls. Authors such as Robert Nozick (1974) and Jan Narveson (2010) would argue that libertarian societies, which focus solely on ensuring non-interference, are best able to realise liberties.

John Rawls, in *A Theory of Justice* (1999) argues that equality is the benchmark for political institutions. He emphasises, in his theory of justice, the importance of the state to ensure that it is possible for the most disadvantaged members of society to meet their basic needs. For this reason, he is a liberal egalitarian philosopher, since his theory combines the traditional liberal value of individual freedom and autonomy, with the egalitarian theme of equal opportunity for all to live a certain life (Arneson, 2004). So Rawls' liberal egalitarianism seems to see the state as conferring negative liberties as well as positive liberties, i.e. the state does much more than just ensure that people are not interfered with. He argues that in the original position, under the veil of ignorance contract makers agree to two principles. The first is the liberty principle, which ensures that each person has an equal right to the most extensive equal basic liberties compatible with that of others. The second consists of the difference principle which spells out how inequalities should be arranged, and the equal opportunity for all principle. Social and economic inequalities should, firstly, be to the advantage of the least well-off members in society and secondly, these inequalities should be attached to positions and offices which are equally open to all (Rawls, 1999: 53). The second principle regulates the way in which wealth is distributed so that even if the rich are getting rich, they are not doing so at the expense of the poor. Rawls also makes the following argument with regards to the distribution of natural assets:

> P1: I have no right to anything that is the result of conditions or processes for which I am not responsible
>
> P2: My talents and contingent character are due to genetics and environment (the natural distribution of talent is morally arbitrary)
>
> C: Therefore, I have no right to my talents and character

He argues that individual talents can benefit all, including and especially those who have lost out, rather than being for the sole benefit of themselves (*Ibid.* : 86-87). Since it is the state's responsibility to justly distribute goods, the state must redress these inequalities that people do not deserve. What he draws on here is the idea that being endowed with certain talents such as athletic ability, a high level of intelligence, good looks or maybe being good at rhetoric, is an arbitrary thing. People do not earn these talents and endowments, rather they are either lucky to have them or unlucky not to have them. But this shouldn't leave those who were unlucky completely disadvantaged and living a sub-standard life. This is why people's individual talents and endowments should, according to Rawls, benefit all of society rather than just the lucky few whom they belong to.

Nozick, in *Anarchy, State, and Utopia* (1974), places emphasis on the importance of individual liberty above anything else. He claims, in his preface, that individuals' rights are so far-reaching and strong that they leave little, if any, room for the state. For this reason, only a minimal state "limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on, is justified (Nozick, 1974: Preface ix). Unlike in Rawls' theory, the state is not allowed to make use of individuals' person or property if that individual does not voluntarily consent. Anything more than the protection of our negative rights, violates our rights not to be interfered with and so our rights limit what others and the state may do to us. Nozick does not view talents in the same way as Rawls does. He uses the example of Wilt Chamberlain, a famous sportsman, to show that natural distributions and economic ones cannot be regulated since people are free to choose what do with their talents and money (*Ibid*.: 160-164). According to Nozick, and with the influenced of John Locke, I, as an individual own myself and I am therefore entitled to anything that is produced from my labour. So, contrary to the difference principle, I am justly entitled to something if it was justly appropriated in original acquisition and if it was justly transferred to me voluntarily. This means that no other method of acquiring goods is just (Nozick, 1974: 150-151). I will explain Nozick's entitlement theory in more detail in Chapter 4. The traditional debate between these two approaches is still being taken up by more contemporary artists today.

In their book entitled, *Are Liberty and Equality Compatible?* (2010), Jan Narveson and James Sterba debate whether the right to the most extensive equal negative liberty requires or is at least compatible with the right to welfare. Sterba can be thought of as taking up a Rawlsian stance, since he argues that the two are compatible, while Narveson, taking up a more Nozickean stance, argues that the two rights are incompatible. Not only does Sterba assert

that the two ideals are compatible, but her argues that Narveson's ideal of negative liberty actually leads to the requirement of an ideal of equality. There are two issues being dealt with in this debate. The first is the right to negative liberty, which is the right not to be forcibly coerced or interfered with by others. It is a right of non-interference and can be satisfied by inaction (Vallentyne, 2011). The second issue is that of welfare rights, in the negative sense. The right to welfare is explained as the right not to be forcibly interfered with by others when:

> (1) the agent is taking resources possessed by others, (2) it is not possible for the agent to satisfy her basic needs without non-consensually taking resources from others, and (3) the persons from whom the resources are taken do not need them to satisfy their basic needs.

So the welfare rights as negative rights in question here do not require people taking action in the form of giving the agents what they need; it is purely non-interference when the agents take the resources they need. However, it is a negative right in response to the positive right of being able to satisfy your basic needs, which requires more than non-interference in order to be satisfied. According to Sterba, from the get go, we either choose the negative liberty of the rich not to be interfered with in using their surplus resources for luxuries or we choose the negative liberty of the poor not to be interfered with in taking from the surplus of the rich to meet their basic needs. Sterba says we would choose the negative liberty which favours the right to welfare. If we take into account our conflicting and non-conflicting interests and rank these interests from high to low, it is possible for the low-ranking interests of the rich (luxuries) and the high-ranking interests of the poor (basic needs) not to be in conflict, and in instances like these, high-ranking interests should be prioritised. Narveson argues that Sterba fails to make the distinction between basic and non-basic needs, which is important if his argument is to succeed. The idea Narveson banks on is the fact that individuals are different and they have different needs. What may seem non-basic to one could be basic to another. Narveson further argues that the only principle we can agree on as different people, is the negative liberty not to be interfered with since we all have our safety and longevity as interests which would benefit us. Anything further, we could not unanimously agree on (Cato Institute Book Forum, 2010).

Most of the debates around individual liberty address how the relationship between the individual and the state should operate and the extent to which our liberty should or should

not be interfered with by the state. This is the larger, more general issue I address in my research report by looking at libertarianism and egalitarian liberalism and by comparing the two. However, I focus more on the way power relations and the way we conceive of power shifts the debate. Before I can speak about power relations and their impact on the traditional debate, I will need to provide an overview of the important terminology and of the main and relevant aspects of Rawls and Nozick's theories.

In this Chapter I have introduced some of the questions which arise when one discusses the centrality of liberty as a political value, as well as provided a brief outline of traditional and current debates around liberty. In Chapter 2, I explain what liberty is by contrasting positive and negative conceptions of liberty. Even more pertinent here is my discussion of the value of liberty. In other words, I examine why individuals might want and value individual liberty. The answer to my research question depends quite heavily on this discussion. I then move on, in Chapter 3 and 4, to provide an exposition of the two competing interpretations of liberalism; namely, Rawls' Egalitarian Liberalism and Nozick's Libertarianism. These are both positions in favour of liberty as a fundamental right, yet they differ on how this liberty ought to be achieved and ensured by the state. Again, I will only mention the general ideas which are of relevance to my research report and the question it asks. In Chapter 5 I discuss Foucault's conception of power in depth, providing definitions for the different ways that power has manifest itself in societies at different points and evaluating his theory of power against the critique by Charles Taylor that his theory is incoherent. If Foucault is correct that power relations are everywhere and that power is productive, which is what I set out to argue for, this will have a bearing on what kind of relationship the individual should have in relation to the state. This will also have an impact on how we should interpret the traditional debate with regards to which state best realises individual liberties for its citizens. Chapter 6 is where I apply the newer, modern conception of power to both Rawls and Nozick and provide an interpretive analysis of the practical implications of the reconfiguration on the way that state power and liberty has been approached. Lastly, I conclude by arguing that a qualified version of Rawls' Egalitarian Liberalism best realises individual liberties for all citizens.

Chapter 2: Individual Liberty

2.1. Introduction

In the introduction of my research report, I explored the fundamental liberty principle and the supposed adverse relationship between individual liberty and state or political power. I also mentioned the possible impact that power relations and the way these relations manifest themselves in different political settings, has on whether or not an individual enjoys liberty. That exploration led me to establish the following question:

> *"How, through an analysis of conceptions of power, can we determine whether individual liberties are realised better under egalitarian liberal states or under libertarian states."*

However, I did not go into detail about what liberty is. I have said that I will not be dealing with liberty or freedom in a metaphysical sense, and that I refer to basic civil or political liberties. These are, in a general sense, those rights given to every individual in society on an equal basis. Since I begin my research report with the assumption that liberty is a fundamental political value within the liberal tradition, it is crucial to my paper to establish a working definition, but also to make it clear what I mean when I use the term. This chapter of my research report deals solely with establishing a working definition of liberty, through an analysis of the arguments surrounding what liberty is. I also explore what the importance of liberty, as a political value, is. In other words, I attempt to explain why liberty is valuable for individuals. If liberty is a fundamental value in society and something that people would rather have than not have, it must be clear that the society which best realises liberty is the one which promotes liberty that is valuable to individuals.

2.2 Liberty defined

There are many conceptions of liberty, which is why it is important to make it explicit which I will work with throughout this research report. The question I seek to answer by defining liberty is 'What does it mean to say that an individual in society is free?' Well firstly, different political views endorse different interpretations of liberty by appealing to various other factors, such as how the relationship between the individual and the state ought to be, what the basic societal and political values should be and to human nature[4]. Within the liberal tradition alone, there is vast disagreement about liberty itself and the proponents of

[4] Lacewing, Michael. (n.d.)"Liberty", in Routledge

liberalism, if all taken together, usually have large discrepancies in their political and philosophical standpoints. For example, Plato insisted that freedom could not mean allowing people to do as they please, since for him this would lead to a life ruled by desires and people would not be acting rationally (Fitzpatrick, 2011: 45). For Plato, leading a life dominated by appetites was more like being a slave, whereas real freedom was being a balanced individual who was ruled by reason. Freedom demanded restrictions and people were only free if they were disposed to being rationally ruled. For other theorists, everyone was free regardless of their individual preferences and freedom was more about being left alone to do as one pleases. However, even here, in order to avoid chaos, there was a provision for everyone to also respect the freedom of others. Despite these variations, there are four characteristics[5] that most modern liberals are inclined to share. These characteristics include, firstly, a general commitment to both individual and societal freedom. Secondly, a commitment also to tolerance, whether it be tolerance of individuals with one another or tolerance of a state or governing body. Thirdly, a commitment to individualism and autonomy, which will be elaborated on shortly, and lastly, a distrust and suspicion about unlimited or discretionary power. My focus in this chapter, of course is on the central importance of liberty within this tradition. In the subsequent chapters I address the other characteristics in more detail. The two main conceptions of liberty, which Isaiah Berlin (1958) distinguished between, are explained below.

2.2.1 Negative Liberty

According to Berlin (1958: 2), liberty in the negative sense answers the question, "What is the area within which the subject…is or should be left to do or be what he is able to do or be, without interference by other persons?" In this sense one is said to be free to the extent to which nobody or group of people interferes with one's activity. Liberty amounts to non-interference or the absence of coercion by others, where coercion is the deliberate interference from others which prevents one from achieving a desired goal. If a person is prevented by someone else or a group of people from doing what he or she would otherwise do, then that person is not free, according to this conception. If we imagine an individual who wants to go to the mall, that person is free if there is no one preventing her from doing so. In other words, she is not being locked in her room to prevent her from leaving and neither is she being threatened not to go. Under this conception, individuals are free in so far as they are not constrained by others, where such constraint includes interference with their income,

[5] Ivison, Duncan. 2011. "Liberty and Government: Hindess and the History of Liberalism"

wealth, the distribution of goods, property, etc[6]. John Stuart Mill, in his book *On Liberty* (1859: 72) once stated that "the only freedom which deserves the name is that of pursuing our own good in our own way". What he meant here, and in agreement with the negative conception of liberty, was that people should be left alone to pursue their own ends and should also not deprive others of this right. So according to this position, the state's role is limited to protecting negative liberty (Lacewing, n.d.). With the state's role being so limited, one can see that an adverse relationship between the state and the individual is assumed.

2.2.2 Positive Liberty

Liberty in the positive sense, according to Berlin, answers a different question; namely, "What, or who, is the source of control or interference that can determine someone to do, or be, this rather than that (*Ibid*.)?" In contrast to negative liberty as freedom from interference, positive liberty is about being able to do something or being in control of pursuing certain goals. So being free in the positive sense is having the capacity to exercise something or having the ability to pursue something. For example, an individual who is not prohibited from becoming a student at the University of the Witwatersrand but who is too poor to afford tuition is not free to study there – she does not have an effective power to act. From these two conceptions, one can see that positive liberty is not a necessary condition for negative liberty, since in the example above, the individual still has freedom in the negative sense. However, one cannot exercise positive liberties without having negative liberties too. In the example above, the individual would need both the means (or effective power to act), together with the freedom from interference, i.e. without being prohibited or restricted to act, in order to be free to study at Wits. So to summarise, positive liberty can be defined as an effective freedom, which is a power to act and also involves being autonomous and making rational decisions towards a goal. Lastly, because positive liberty is an ability rather than an absence, it would involve individuals being involved in the political decisions that affect them[7].

Most libertarians reject positive liberty on the basis that restricting negative liberty can increase positive liberty and possibly lead to totalitarianism. It seems as though we are in control of our actions and of pursuing our goals if we are left alone without interference. However, being able to govern ourselves and our lives – being autonomous, requires more

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[6] Fitzpatrick, Tony. 2011. *Welfare Theory: an introduction to the theoretical debates in social policy*, 2nd Edition. Palgrave: England

[7] Adam Swift argues in Lacewing, "Liberty", that positive liberty consists of three ideas which each reject certain aspects of negative liberty. These three aspects of positive liberty are liberty as effective freedom, as autonomy and as political participation.

than being left alone to do what one wants. It requires that we are able to act rationally and make decisions that are in our best interest but also act on those decisions. This leads to problematic outcomes for Berlin, who is weary that the state can claim to act in your best interests and therefore force you to be free, i.e. interfere with their decision-making in order to make them autonomous and free. In other words, by interfering and forcing people to act rationally through various state mechanisms, thus ensuring they are able to make decisions based on reason rather than desires, one can give them more positive freedom. What this does is confer more power to the state or to any group claiming to know what acting rationally is, which is what many liberals are against to begin with (*Ibid.*).

Both Rawls and Nozick limit themselves to and endorse accounts of liberty that do not include positive liberty, since positive liberty is quite controversial. Rawls can, at some pints, be seen to endorse a mix of the two. I will evaluate their theories with the negative account of liberty in mind since they are both in agreement here, although I am aware of and continue to make mention of some aspects of the positive account. It is necessary to limit my evaluation to negative liberty so as not to beg the question against Nozick from the onset .In terms of liberties, the question then becomes, "Are positive or negative liberties more important for individual liberties?" Or rather, is liberty more than just the absence of interference? What is at stake here in attempting to define liberty is an assessment of what we value with regards to liberty.

2.3 The Value of Liberty

There is no straightforward and simple answer to the question 'what is liberty', however it is still possible to discuss why liberty is important. The many proponents of liberalism have, amongst themselves, disagreed on the kind of liberty that individuals should have based on their different conceptions of the good life or justice, of human nature and of the role of the state. In this section I question whether or not liberty is essentially an individualistic notion. I also question the sufficiency of the negative conception of liberty as non-interference. Another interesting element to consider with regards to the value of liberty is that theorists such as John Locke, Adam Smith, Kant and Mill make a distinction between people that can best be governed through promoting their liberties and those that cannot be best governed in that way, whether they mean the poor, or other minority groups[8]. Some of the earlier theorists

[8] Ivison, Duncan. 2011. "Liberty and Government: Hindess and the History of Liberalism" Alternatives: Global, Local, Political, Vol. 36, No. 1

also set requirements for particular groups of people who can enjoy freedom. Although we have move past this type of elitist liberty, it still says something about the provisions and limitations set on freedom. The issue this raises is that not only are there certain capacities needed for freedom, but If it is the case that freedom is important for more than just being left alone to pursue one's ends, then it is not correct to limit the state to this function alone. However, if it is established that freedom is more than this, we must still provide justification for limiting negative liberty.

To begin with, most modern liberals understand that entering into societies with other people requires some sort of trade-off or sacrifice. This can be related to the liberal characteristic of tolerance for others and tolerance of the state, along with the institutions which are set up to socially or economically protect and secure your well-being. People already sacrifice some liberty in order to enjoy more liberty overall and to be able to secure their individual right to be free. If we imagine that there is a pre-political state of nature it is easier to further imagine the individuals, therein agreeing to abide by certain rules and to enjoy a limited freedom in tolerance with the freedom that others are allowed to enjoy. One is not a free individual within a vacuum. A person has to have limits to their liberty, compatible with the same limits that other citizens have. If this were not the case and people did not enjoy equal amounts of liberty, we would be in a state of chaos where people are free to do as they please. This would be a state where theft, fraud, violence, abuse and manipulation would be rife and as a result, many people would not be safe and secure to be free. The strong would have control over the weak and it would not be a conducive environment for advancing and pursuing individual plans. So liberty is important, not just theoretically, as a concept, but is important in practice.

In putting our liberty to use, what is it that we are striving to do? We usually want to exercise our individual liberty in order to do or pursue certain goals. Essentially, liberty is useless and is of no value if we can claim to have it but not be able to do much else with it. Berlin argues that without a certain degree of freedom, individuals will not be able to formulate and pursue an idea of the good. As rational, self-interested beings, we have aspirations and things that we want, whether in the short term or long term. Freedom is important for us so that we can decide what we want and have the liberty to go for it unrestrained. What good would it be to be able to proclaim "I am free, no one is restraining me", when I cannot actually pursue a certain end of mine. Going back to the slave example, how free are the slaves who have a

benevolent master if they still cannot in actuality go home and raise their own families? How much freer are they as compared to the second group of slaves who have a harsh master?

Chapter 3: Rawls' Liberal Egalitarianism

3.1 Introduction

In Rawls' revised edition of *A Theory of Justice* (1999), he provides an account of justice centred on fairness and takes both liberty and equality to be hallmarks of a just society. His aim, in formulating his theory of justice, is to provide a comprehensive alternative to utilitarianism (1999: xi). He sees the utilitarian argument as one which promotes the unfair treatment of a minority group, since under utilitarianism, it is acceptable to treat a few people unjustly for the benefit and overall happiness of the majority. Following the social contract tradition of Locke, Rousseau, and Kant, he attempts to provide a systematic alternative account of basic rights and liberties of individuals in a just state.

Rawls' social contract, in brief, is comprised of a state of nature which he calls the Original Position, where people are to decide on principles for the basic structure of society. In order for the decision-making to be impartial, participants in the law-making are behind what Rawls calls a 'veil of ignorance', i.e. they are ignorant about some details such as their place in society (whether they are poor or rich), their race, gender, natural endowments, etc. (1999: 10-11). They are, however, rational and free beings and would have a general inclination to wanting more resources rather than less. Another important aspect is their knowledge of what Rawls calls a 'rational life plan'. A rational life plan is what any rational person would want for their life if they were capable of achieving it, and so everyone would have this (Rawls, 1999: 79). The aim of those in the original position is to find principles of justice that would make for a just society and that would satisfy their individual interests while optimising the positions of others. The idea behind the veil of ignorance is this: If I want to optimise my position in society, yet I do not know my place in society, I should try optimise the positions of as many people as possible just in case I am unfortunate. The way in which the basic structure of society is set up is important because basic rights and liberties are distributed here, which also has an impact on each individual's quality of life and their ability to pursue certain goals (Rawls, 1999: 6). For example, if the basic structure of society is set up such that I have less liberty than those who are wealthier, I am inclined to be less motivated and hopeful of being able to pursue my own ends. This inequality in the basic structure of society would be unjust for Rawls.

In this chapter I explore the Rawlsian side of the debate concerning whether a libertarian or egalitarian liberal state best realises individual liberties. Rawls' theory of justice is quite detailed and intricate, however I will only be focusing on his principles of justice, which are directly related to liberty as a fundamental political value. I focus solely on the sections in his work which are relevant to answering my question. For this reason, I do not discuss the background to his theory in any detail. In this chapter I will briefly explain his theory of justice and the principles agreed upon.

3.2 The Principles of Justice

The principles of justice can be summarised as a general conception of justice denoting the following (Rawls, 1999: 54:), "All social values – liberty and opportunity, income and wealth, and the social bases of social-respect – are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage." In the original position, under the veil of ignorance these two particular principles of justice are decided upon by the participants[9]:

> 1.) Each individual is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all, and
>
> 2.) Social and economic inequalities are to be arranged so that they are both a.) to the greatest benefit of the least advantaged…and b.) attached to offices and positions open to all under conditions of fair equality of opportunity.

The first principle deals with each and every individual's equal and legitimate claim to certain rights and liberties. These liberties are so far-reaching that they may not be exchanged or taken away and include political liberty, freedom of thought, of speech , association and of conscience, but also a person's physical freedom , their right to own property and freedom from arbitrary seizure or arrest. These liberties and rights should be distributed to individuals in society on an equal basis, since according to Rawls (1999: 53), it is unjust if some have more of these basic liberties than others. It is unjust, for example, for some to have more freedom of expression than others. These rights and liberties are primary goods in society, since regardless of status or moral conceptions of the good life, each person would always prefer to have more rather than less of these.

[9] Rawls, John. 1999. *A Theory of Justice Revised Edition*. Harvard University Press: Cambridge, p. 266

The second principle of justice is made up of two parts. The first part, which deals with inequalities being justified if they are to the advantage of the least advantaged in society, is called the *Difference Principle*. It deals with the fact that in any given society, inequalities of income, wealth and talents are bound to be there. These inequalities are justified only if they are to the benefit of the least advantaged members of society, rather than at their expense. In other words, there are allowed to be discrepancies in income and wealth but as long as this raises the prospects of a better life for those who earn the least – the least advantaged members in society should not be living in extremely poor conditions while others are extremely wealthy.

The second part of the second principle of justice deals with fair quality of opportunity. This principle ensures that those with the same capabilities and willingness to make use of their capabilities should be given the same opportunities, regardless of their class and any other arbitrary facts. These include opportunities for certain positions in society, educational opportunities and economic ones. It would be unjust for some people to have opportunities to pursue an excellent education on the basis that they are wealthier and can afford it, while others are deprived of this opportunity because of their lower place in society (Rawls, 1999: 63). Under circumstances where two principles are in conflict with each other, Rawls suggests a lexical ordering where the equal liberty principle takes priority over the difference principle and equal opportunities open to all. In the Slaveland illustration from my introduction, one would first need to deal with the unfair distribution of liberty between slaves and their masters before one could deal with inequalities of opportunity and of economic wealth (1999: 54).

What Rawls' theory does is show us that it is just for the state to intervene in order to decrease inequality. Also, if inequality has an impact on the way individuals approach their rational life plans, then it is important that the state makes things possible for even the least advantaged in society.

Chapter 4: Nozick's Libertarianism

4.1 Introduction

Having just explained Rawls's theory, I now move on to give an account of Nozick's theory. This chapter focuses on the other side of the debate concerning where individual liberties can best be realised. Nozick's response to Rawls argues that only a minimal state, devoted to the enforcement of contracts and to protecting individuals from being interfered with can be justified. He is similar to John Locke in that government or the state is only legitimate to the extent that it promotes security for life, liberty and property, which would not otherwise exist in a chaotic state of nature where politics is absent. He is largely influenced by Locke, who is the most influential natural rights theorist, as Locke posited that before the political state, there existed a state of nature in which all individuals possessed the right to life, liberty and property (Miller et al., 2005: viii) . Although Nozick is very critical of state power, Nozick acknowledges the importance of the state, as a centralised agency which all people can rely on.

4.2 The Entitlement Theory

Nozick develops a theory of justice called the entitlement theory, which argues directly against Rawls' theory. Nozick's theory of justice does not require an extensive state and criticises all theories of justice that do justify a more extensive state, and especially those that give the state a distributive role such as Rawls (Nozick, 1974: xi). He begins by positing that individual rights are inalienable and should not be exchanged or taken away. Anything which involves the infringement if such rights is unjust, unless one's exercise of his or her liberties is causing harm to or restricting the liberty and rights of others. The Entitlement theory consists of three main ideas; original acquisition of holdings, transfer of holdings and lastly, the principle of rectification (Nozick, 1974: 151). The idea is that one is entitled to acquire an object from nature which is available in abundance, so that others too may acquire it if they wish to. The idea is that originally there was no ownership of items that were given to us by nature. Once you have acquired an object or item justly you are entitled to that item. Once you mix your labour with the object it truly belongs to you and you can claim it as your property. You also now have the liberty to give it to whomever you please or exchange it for something else. The second issue concerns justice in the transfer of holdings, which simply means that you may do with your property as you wish , whether you give it away as a gift or

sell it. An example of this is a situation in which there are three participants playing cards, who have also been given the same amount of money to place bets. They are equally rational and all know the rules of the game. If at the end of the game, the one participant ends up with everyone's money and the other two have nothing, this is for Nozick a just distribution because everyone played voluntarily and no one was at a disadvantage. It would be unjust to redistribute his winnings to everyone else.

Chapter 5: Foucault's Conception of Power

5.1. Introduction

On the one hand, the traditional and widespread conception of power, which Foucault calls the 'juridico-discursive model' or the "*Right to Death"* (1978), is largely repressive, silencing and limiting. It is influenced by and centred on a system of law which makes clear who controls power and whom power is acted upon. This conception of power prevailed during the Middle Ages, where the sovereign powers of monarchs manifest themselves in this way. Under this conception of power, there is a negative relationship between power and its subjects in that power inhibits and prevents. This means that the nature of power is only prohibitive, since it makes laws which suppress certain actions. Power determines the laws which dictate whether something is legal or illegal and then punishes those who disobey by subtracting something from them (this could be as severe as taking life). Power is seen to be working in the same direction at every level, implying a top-down model so that power is exercised over me at a loss to me. It is housed or located in official institutions or within certain individuals, which also means that the more power some have, the less power I have (Foucault, 1978: 83-85). The implication of this conception of power is that the state is seen as a threat to my liberty. If the government or the state is where power is located, this means that the more active governments we have, the less liberty we have. Under this conception it is understandable why we would want less government involvement, as most libertarians propose.

On the other hand, Foucault suggests modern power, which comes in the form of disciplinary and bio-power but is also called "*Power over Life"* in *The History of Sexuality: Volume 1* (1978), as a way of describing other ways in which power functions. On this conception, the sovereign nature of the state and rule of law should not be thought of as rigid, core power-houses, but rather as manifestations or forms of power relations amongst many others. The main point under this new conception of power is that power is productive and enabling. It is everywhere and comes from everywhere, i.e. power is spread throughout society, rather than being located in particular places. The goal of disciplinary power is to optimise capability and produce self-disciplined individuals, while that of bio-power is to supervise and manage life with the aim of ensuring a productive population. The implications here are that if power is

productive and enabling, getting rid of power would disempower. Also, the state does more than just provide equal opportunities; it levels the playing field (Foucault, 1978: 137).

5.2 Defining Power

Foucault's theory of power is defined in the chapter called "Method", in Part Four of *The History of Sexuality: Volume 1*. Foucault highlights the need for a new way of analysing power – one that does not make law, sovereignty, restriction and liberty the model for our conception of power. He develops and expresses his understanding of power in his analysis of the discourse on sexuality during the nineteenth century, enabling us to see that the way we have thought about sexuality can be re-thought in a less conventional way.

The understanding we have of sexuality has inaccurately been influenced by the "repressive hypothesis" – the idea that sexuality has been repressed and silenced – when on the contrary, there has been an increased urge to discuss sex or rather, to put sex into discourse (Foucault, 1978: 11). To speak of "the discourse on human sexuality" is to speak of how it is that we have come to think and speak of sexuality in the ways we have (Foucault, 1978: 11). A discourse on sexuality encapsulates, broadly speaking, all the facets of society that have shaped the manner in which sex is spoken about. On the one hand, we tend to believe that individuals or society as a whole are subjugated to repress their sexuality and their sexual desires. This idea comes from the psychoanalytic view that the relationship between desire and power is a negative one, in that repressive powers are what cause desire. Society and its norms forces us to repress our desires and this repression becomes a law determining what behaviour counts as normal, but this repression is also what brings about desire (Foucault, 1978: 81). In the case of Little Hans, Michael Billig interprets the dialogue between the father and boy-child to be the cause of his sexual desire. The parents' reluctance to talk about sexuality and their efforts to change the topic when sex is brought up frustrates the child and awakens his curiosity and desire (Scheff, 2000). What this example illustrates is that the prohibitive nature of laws, which supposedly discourage one from behaving in certain ways, are what awaken one's desires for certain things. In both senses, power is viewed as something that represses or oppresses, which is what the juridico-discursive conception of power entails. Foucault wants to show that this conception of power is mistaken and that power is not a repressive force.

According to the juridico-discursive conception of power, power is largely repressive, silencing and limiting – prohibiting pleasure and the ways in which sexuality has been expressed (Foucault, 1978: 84). Power, according to this representation, is influenced by and centred on the system of law, which makes clear who controls power and whom power is acted upon (ibid.). Foucault identifies five attributes that define the juridico-discursive model.

Firstly, the juridico-discursive model establishes a negative relationship between power and sex. Every connection between power and sex is negative, meaning power inhibits sex or any sort of pleasure so that these are either completely restricted or limited (Foucault, 1978: 83).

The second attribute that Foucault identifies is the fact that power determines laws which dictate how sex is to be viewed and understood. The fact that power directs the "rule of law" means that it determines whether something is legal or illegal, allowed or disallowed. In viewing power this way, an importance is placed on the discourse created by placing laws on sex because there is a certain way in which sex is thought of, spoken about and written about (Foucault, 1978: 83).

Thirdly, the nature of power is only prohibitive. Power denies one of his or her existence by making laws which suppress certain actions to the point of making one choose between two non-existences; one either repudiates oneself and ones sexuality or suffers the consequence of being constrained or having ones sexuality constrained. In simpler terms, you either give something up or it is taken from you (Foucault, 1978: 84).

A fourth attribute is the idea of censorship, which takes three forms; asserting that something is prohibited, disallowing it to be spoken about and denying its existence. This is also the idea that the thing that is prohibited is silenced and becomes a taboo (Foucault, 1978: 84).

Lastly, power is seen to be working in the same direction at every level. This implies a top-down model of power, where the organism in power acts, through laws, upon those who are subjected to power, or whom power is acted upon. At the top, power is concentrated in the authority of those who make restrictive laws and enforce them, and at the bottom there is a subject who must obey and submit to these laws or face punishment for rebelling against the power in place (Foucault, 1978: 84-85).

The model of power discussed above is, for Foucault, merely a theory and is an incorrect characterisation of the nature of power, as it fails to account for the way power actually works in modern society. It is for this reason that Foucault holds that we need to develop a

new study and analysis and free ourselves from the juridical representation (Gordon, c1980: 120). Foucault begins by formulating a definition of what power is by first contrasting it with what power is not. When speaking of "power", Foucault is not concerned with a specific group of organisations or a particular body, located at a particular place in society, responsible for ensuring the obedience of a state's citizens. He also does not mean that one group dominates over another or brings another group in society under its control in a systematic way. The sovereign nature of the state and the rule of law should not be thought of as rigid, core power-houses, but rather as manifestations or forms of power relations amongst many other power relations (Foucault, 1978: 92). Power has a much more complex nature than that ascribed to it by the juridico-discursive understanding of power. It is not located at one central point; rather, it is spread throughout society – it is everywhere and comes from everywhere. Power relations occur continuously, shifting from one point to another. Power is not something we can claim to possess or something that can be given and taken away. It is, rather, a concept used to describe the on-going, tactical and complex unity of relations within society. Power, for Foucault, does not lie outside of and should not be conceived of as external to the everyday relations taking pace amongst people in society (ibid.). Foucault's analysis shows that power is not repressive, but is a productive force. It is productive in that it produces one's selfhood or identity. For example, in being asked questions by a psychoanalyst, doctor or priest about my sexuality, there is already an expectation for me to disclose something which the person I am confessing to already takes to be a hidden and suppressed sexual desire that forms part of my nature. In talking about my sexuality, the doctor, priest or psychoanalyst tells me about this repressed desire and I conform to the explanation describing my behaviour. In other words, I see myself in the way my sexuality has been described to me. Foucault notes that the widespread presence of confession causes us not to recognise it as an effect of power, but on the contrary we see it as an important part of bringing out the essential nature of our identity and revealing a truth about ourselves (Foucault, 1978: 60). According to Freud's psychoanalytical model of repression, reflecting on one's desires enables one to disclose the truth about oneself and frees one from those repressed desires which were hidden (Rajchman, c1985: 89-91) .This example shows how the discourse on sexuality and power forms identity, while playing a normalising role to individuals (Foucault, 2003: 30,38). Having introduced what is meant by power, there are three forms of power, examined by Foucault, which manifested in society at different points in time.

So far, I have addressed the two concepts of power dealt with by Foucault in *The History of Sexuality: Volume 1*; namely the repressive and the productive conceptions of power. In Part Five of *The History of Sexuality,* Foucault shows that the repressive conception of power was predominant during the Middle Ages and here, he calls it 'sovereign power'. On the other hand, the productive model of power is representative of who we are and prevails in modern society. Foucault calls this modern form of power 'disciplinary power', in his book *Discipline and Punish*, but he reformulates some of the characteristics of discipline and calls it 'biopower', in Volume I of *The History of Sexuality.* We can, therefore, think of modern power as a combination of disciplinary power and bio-power.

Part Five of *The History of Sexuality: Volume 1*, entitled "Right of Death and Power over Life" is essentially a distinction between sovereign power, a form of classical power and bio-power, a form of modern power and the differences in which these different forms of power were applied. I define each form of power in order of historical significance.

5.2.1 Sovereign power

Sovereign power, which prevailed during the Middle Ages, displays similar characteristics to the juridico-discursive representation of power and is linked to the idea of "Right of Death", developed in *The History of Sexuality: Volume 1* (1978). This classical or ancient form of power can be defined as the sovereign's "right to decide [the] life and death" of his subjects (Foucault, 1978: 135). This right, held by the sovereign, is conditioned by whether the sovereign's life or position and legitimacy were in danger. If this were the case, he could either directly exercise his power over a transgressor by putting him or her to death or indirectly exercise his power over life and death by sending his subjects to war and having their lives exposed. Despite the fact that this was a right of life and death, the sovereign exercised his right by killing or deciding not to kill, making it essentially a right of death. Essentially, this meant that the subject's right to be alive or dead was not considered as a given natural, undisputed right, superior to the sovereign's power. Rather, it was a right bestowed upon the subject by the sovereign (Foucault, 2003: 240). In general, this form of power was one which limited, restricted, ended life and took things such as property, wealth, time and taxes, amongst other things, away from its subjects. This can be summed up as a power of "deduction" as it was unproductive (Foucault, 1978: 136).

A good example which serves to clarify what Foucault has in mind by sovereign power is found in Part One of *Discipline and Punish* (1977), entitled "Torture". Here, Foucault gives

an account of the public execution of Damiens, a regicide – someone who participates in the killing of the king. In a graphic account of Damiens' sentencing to make "*amende honorable*", he is subjected to a public display of torture (Foucault, 1977: 3). He has to appear before the Church of Paris, wearing nothing but a shirt and holding a heavy torch of burning wax. He is then transported in a cart to the place where his execution will take place and where, in public, his body parts will be torn away and holding the weapon he was to use to commit his crime against the king, he will be burnt. This will be done by pouring "molten lead, boiling oil, burning resin, wax and sulphur melted together" over his body (Foucault, 1977: 3). In the account of how he was executed, it is reported that in the excruciating pain, he cried out to God, begging for pardon and help. At some point, Damiens also asked the priest to pray for him (ibid.). The instruments used as well as the horses used to tug at Damiens' body, were especially organised beforehand, suggesting that this punishment was almost a ritual or a public event (Foucault, 1977: 3-4). This account exemplifies what is meant by sovereign power, where the sovereign has legal authority to take away the lives of the condemned. Sovereign power was, for Foucault, the "age of torture", where there was a direct link between the right to punish and the king's authority (McGaha, 2000). Torture as public spectacle is necessary to reinforce power and to warn spectators of the threat of death which accompanied disobedience. The power of the sovereign requires a spectacle in order to be legitimate; otherwise the sovereign's power amounts to nothing. Foucault then details the formation of a new penal system, eighty years later, which did away with public torture and introduced timetables in prisons (Foucault, 1977: 6-7).

5.2.2 Disciplinary power

A new form of power called "disciplinary power", characteristic of modernity, is discussed in Foucault's *Discipline and Punish* (1977). A distinction is also made here between classical and modern power, where disciplinary power marks a shift away from earlier, classical forms of power which took the form of "torture as a public spectacle" (Foucault, 1977: 7) and made use of punishment in order to control its subjects. Disciplinary power does not make the control of people public and uses mechanisms other than violence or force to exercise power and control. Foucault begins his analysis of disciplinary power with the image of the soldier in the seventeenth century, representing someone that could easily be identified in terms of his physical appearance as well as his character. The soldier became something that could be created through training and habituation, by the eighteenth century. This idea of the creation of an ideal type of person can be conceived of as the theme of disciplinary power, which

employs several techniques aimed at creating efficient individuals (ibid.). The soldier also represented the norm of how one should conduct oneself. This idea of creating individuals ties back to Foucault's conception of power as a productive force and as identity-forming. The individual body becomes a central target of power during the classical age and more specifically, the discipline of the body and the maximisation of its utility was central (Foucault, 1978: 139). Training and disciplining individual bodies aimed at making humans economically useful and politically cooperative (Foucault, 1977: 37-38). In addition to the efficiency of individual usefulness and capacity, the concept of "docility", which ensures that the body can be analysed but also manipulated, became equally important. A docile body, according to Foucault, is one which can be used, made a subject, changed and made better (ibid.). The disciplines, then, are the methods making the precise control of the manner in which the body operates possible.

The manner in which discipline advances is to distribute individual bodies in space and to ensure that particular techniques are in place. Individual bodies are organised and confined in spaces, whether in school buildings, the military, hospitals or workshops, in order to ensure better mechanisms of control. The strict confinements put in place would have the benefit of creating order and control, placing those in authority in the advantageous position of being able to manage and monitor individuals. The focus on individuality is also important. Dividing space so that each individual has their own space has the benefit of avoiding confusion and group-think but also makes it easier to monitor and supervise each person's actions, misconduct and their whereabouts (Foucault, 1977: 141-143).

Another component of disciplinary power is the control of individuals' actions. The timetable is an example of an activity-controlling mechanism which is seen throughout many institutions in society, i.e in schools, hospitals and workshops (Foucault, 1977: 149). A disciplined body becomes one that is punctual, and through punctuality, is said to be efficient (ibid.). Discipline creates individuals out of the bodies it controls because each individual is made responsible for the control of his/her own actions and for their adherence to the rules and time constraints put in place (ibid.). The way spaces were constructed and designed – in the workshop for example – had the intention of making it possible to supervise individuals as well as the group at large. Not only was it possible to supervise action, but individuals could be analysed and their competency compared (ibid.). In order for disciplinary power to be effective, individuals had to be separated into their own spaces, which made it easier to control their activity through time-tables (Foucault, 1975: 149).

Another function of disciplinary power, which has its own methods, is to normalise individuals. When individuals are analysed and compared, they are compared against a standard of the norm – an ideal of how they should conduct themselves. So to normalise is to construct an image of the ideal individual and to bring all individuals to a point of normalcy, as well as to bring any deviation from the norm back in check. Disciplinary power controls through the mechanism of observation, since the individual's actions can be influenced and coerced through his knowledge of being constantly watched. Architecture, then, becomes important for making possible the surveillance of those within certain structures of control, where the ideal structures make possible the constant visibility of everything from a single gaze (Foucault, 1977: 172-173). The constant observation by the constant gaze becomes an important tool for normalising individuals (ibid.). The mechanisms of surveillance become embedded in the relations between individuals because they are subtle but, nonetheless, have an impact in disciplining individuals – even those watching were watched. The mechanisms of observation make it possible to acquire knowledge about individuals and to judge normal behaviour from deviant behaviour. Anything that does not adhere to the rules deviates from it and failure to conform becomes punishable, but this punishment is also productive in that it aims at correcting a defect. Normalisation makes people similar, as they are required to conform to "normal" standards of behaviour, but it also makes it possible to measure the behaviour of individuals against the norm, as individuals are judged, analysed and grouped accordingly (ibid.). It is evident that disciplinary power has great influence on the formulation of individuals and marks an important part of identity-formation.

Jeremy Bentham's Panopticon, a new type and design of prison, represents the techniques which disciplinary power employs. It is designed to optimise the observation or surveillance of all the prisoners, from one place. There is a tower in the centre of the structure, which makes it possible for a guard to see each individual at all times. The constant visibility of the watch tower, of power, as well as the invisibility of the person doing the watching, both act as effective mechanisms of control and order. However, each prisoner within the prison cells, located on the outer building, is not able to see other prisoners, nor communicate with anyone else (Foucault, 1977: 200). This segregation of prisoners ensures that there are no disturbances and no prisoners negatively influencing others. The structure and architectural design of the Panopticon makes power economical because more people can be observed and controlled, while fewer people are needed in operating this power. The knowledge of being constantly watched, yet not being able to verify this made prisoners always aware of their

behaviour, essentially making them responsible for watching themselves (ibid.). The Panopticon also acts as a "laboratory of power" in that it makes possible experimentation (Foucault, 1975: 204). The Panopticon makes it possible to assess individuals, comparing them to one another to evaluate normality but also to correct individuals through some sort of training or rehabilitation. This sort of mechanism became dispersed throughout society, serving a greater function. Not only did the panoptic mechanism economise power but it, essentially, improved society by making production more efficient, thereby strengthening the economy, encouraging education and improving the moral standard in society (Foucault, 1977: 208).

5.2.3 Bio-power

In *The History of Sexuality: Volume 1* (1978), Foucault revisits this notion of disciplinary power, but reconstructs it as "bio-power", which is associated with the idea of "Power over Life". Foucault makes it clear that although this new form of power is not disciplinary, it does not exclude some of the mechanisms and ideas found within disciplinary power. Bio-power is a sort of modification of the already established technologies of discipline (Foucault, 1997: 242). Although power remains the same thing, its methods differ and with bio-power, the function of power is to supervise and control life, rather than the individual body. However, this preservation and concern for life was not done in the name of humanitarianism, but rather for the aim of ensuring a productive population or as Foucault puts it, "the biological existence of a population" is what is now at stake (Foucault, 1978: 137). The interest in securing life did not mean that wars were no longer waged, but instead of sending subjects to war to expose their lives, as was done under the sovereign, war was intended to ensure an improvement in the lives of an entire population (ibid.). Bio-power focuses on the organisation of populations and the biological functions of the human anatomy, such as its reproductive capabilities, birth and death rates and physical and mental wellness, as well as the factors which made them change . This interest in the population, of bio-power is similar to how the structure of the Panopticon found interest in the well-being of society. The difference between disciplinary and bio-power is this: where discipline makes man the object of control and sees man's body as a machine that should function optimally, bio-power focuses on man as "species body", seeing man as part of a greater population that is affected by biological processes (Foucault, 1978: 139). Bio-power sees man as a subject, who, in confessing, takes part in the procedure of recognising his or her truth (ibid.). So where disciplinary power deals with individual bodies in terms of their practical utility, bio-power

deals with a social mass or a multiplicity of subjects in terms of how to manage populations and deal with their problems (Foucault, 1977: 245).

The objective or aim of bio-power is not to modify individual bodies for the purpose of making them more efficient, but is rather to regularise a "population of living beings" by bringing birth rates, mortality rates, life expectancy, and so on back into balance (Foucault, 1977: 246). The techniques employed by bio-power were numerous and diverse – regulatory controls and calculations of birth rates, healthcare, settlements and economic performance (Foucault, 1978: 139-140). The essential nature of bio-power was the administering of life for a population, so that death became a limitation on power and contradicted its objectives, unless, of course, death was the only way of preventing biological harm to the population (ibid.)

One could think of both disciplinary power and bio-power as essentially aimed at normalising individuals, since both strategies replaced the system of law within the normalising function (Willaert, 2012: 118-119). As was discussed earlier in the section on sovereign power, law relied on the threat of death in order to reinforce itself and wass made public by the sovereign in its exercise. This new mode of power relies on the constant regulatory and corrective measures in order to exercise itself and in so doing, is able to normalise (Foucault, 1978: 144). Sexuality becomes a convenient way of controlling and having access to the body, while at the same time fostering life and regulating the species. The interest in the sexuality of children and in the hysterisation of females tried to control the way in which these two groups behaved, in terms of discipline. This discipline was, however, justified by the need to regularise society (ibid.). While normalisation and discipline are controversial terms, in order to live in a productive society, individuals need limits but there also need to be ways of dealing with instances when individuals do not act in the interests of those around them. There need to be measures taken when the bonds of trust are broken because each individual's liberty is dependent on other individuals and the state is there to enforce these rights and liberties and to intervene when others infringe on the negative liberty of others.

Foucault makes an important observation concerning sex and sexuality towards the end of *The History of Sexuality: Volume 1,* which becomes important in understanding how power operates. The creation of the word "sex" to speak about the various ways in which sex has been deployed has developed the idea that sex is something to be desired, fulfilled or liberated. Foucault notes that we should not think of the liberation of sex as the negation of

power because contrary to this, focusing on sexuality as the means to our liberation is a mechanism employed by power. The target of resistance should be focused elsewhere if we are to truly resist this power (ibid.). In a similar way, one should not be deceived into thinking that confessing frees, while power suppresses. The very act of confession takes place within the network of power relations and requires an authoritative figure to incite the confession and then to still make an evaluation of the confession (Foucault, 1978: 61). Power seems to be deeply entrenched in all sorts of relationships in society, so it is understandable to some degree that people would find some difficulty in accepting Foucault's analysis of power. It is also understandable why some would argue that regardless of what power produces and enables, the mere fact that it is more discreet in its modern form makes it more dangerous and therefore, makes it something we would want to prohibit if we want to protect our liberty.

5.3 Resisting Power as Freedom

It has been established that bio-power defines the mode of power in modern society. Consequently, the need arises to establish the mode of resistance which corresponds to it, since "where there is power, there is resistance" (Foucault, 1978: 95). The modes of resistance exist together with power and must correspond to the mode of power present (Foucault, 2003: 280). In order to address the question of how it is that we can resist this mode of power, we need to first understand what "resistance" means for Foucault, especially in terms of its relationship with power. One of Foucault's principles of power is that resistance forms part of and is essential to power relationships. Resistance does not stand outside power relations but is always present, in the same way that power is always present. The very existence of power relationships depends on what Foucault calls "a multiplicity of points of resistance", which themselves, play different roles in power relations (Foucault, 1978: 95). Resistance should not be thought of as a single event or a big revolt against power. It is found within the tactical network of never-ending and changing power relations. Foucault examines the relationship between power and resistance as that which takes the form of a struggle. According to Foucault, power does not manifest through forms of law and right and is not situated in the State. If power cannot be analysed and understood in terms of the juridico-political model, which takes power to be in the hands of the sovereign and the law, then resistance should also not be thought of as a right that a sovereign subject has. The relationship between power and resistance, since it is a tactical one, should be analysed as a form of struggle which is strategic and warlike (Foucault, 2003:280-281). Power and

resistance come face to face with one another through continuously changing mechanisms and strategic plans, and this is what ensures the variations, modifications and transformations which take place within power relations. Resistance is seen as being at odds with power, which means that resistances are engraved in power relations but stand opposed to power in a way that they cannot be reduced. This implies that just as power is spread out throughout society and takes on different mechanisms, so too are the instances and mechanisms of resistance diffuse and continuously changing.

The concept of resistance is formulated in various ways throughout Foucault's work and it is not always made explicit what resistance amounts to. In *Discipline and Punish*, where sovereign power is concerned, resistance could be thought of as standing outside the law or transgressing the law of the sovereign. Here, one can think of resistance as a direct reaction against the sovereign. The act of regicide, i.e. the action of killing or plotting to kill the king, is a clear demonstration of resistance to his laws. In disciplinary power it is not clear what kinds of mechanisms would count as resistance because even what was disqualified or excluded by mechanisms of power was still used, in the name of productivity (Foucault, 1977: 301). Resisting power in the prison system, for example, would amount to standing outside of the norm. According to Foucault (ibid.) "the social enemy was transformed into a deviant", but this deviant would then need to be imprisoned and restored back to normality through training and discipline. The account of modern power which Foucault gives in *Discipline and Punish* makes it seem as though resistance is something which is difficult to accomplish. His description of power as something present everywhere could raise concerns for the possibility of resistance.

5.3.1 Concerns for Possibilities for Resistance

In light of Foucault's views on power and resistance, many have criticised him for not allowing for the possibility of action in the form of resistance against the techniques of power. For one, his critics see discontinuity and even contradiction between his earlier work on power and his later works and lectures on freedom and care of the self. Deleuze in Benda Hofmeyer (2006: 215) poses a question to Foucault and articulates his critique by suggesting that Foucault is trapping himself in power and then retreating into the self as a means out of this trap. This articulation implies that since resistance can never stand outside of power, for Foucault, it must then be trapped and doomed to failure. Similar to this reading of Foucault's theory of power and resistance, James Miller (in Hartman, 2003) is sited as suggesting that

the shift of focus from Foucault's earlier work, with its focus on power, to his later work on the self is indicative of an admitted failure of the former. According to Miller, there is an explicit discontinuity between resistance as tactical reversal, in his earlier work and the more recent view of resistance as self-rule. Hofmeyer (2006) acknowledges Foucault's disagreement with this idea of being trapped and Hartman (2003: 2) disagrees with Miller's discontinuity thesis, and attempts to show how Foucault understands the relationship between power and resistance.

Another line of critique used against Foucault's theory of the relation between power and resistance is that Foucault might have been asking for too much from us in requiring that we struggle against the disciplinary techniques of society in order to be free. In belonging to a community or society, i.e. being a member thereof, one is required to follow certain rules and conventions, and often times this form of submission is seen as beneficial to individuals and society at large. This line of critique points out that distinguishing between submitting to a power, which is considered negative, and following a societal convention is important, since the latter is not always the same as the former. Peter Dews (in Hoy, 1986: 151) notes that if this distinction is not made every act that does not resist power submits to it and therefore, following conventions is equated to an exercise of power. Furthermore, although it is quite impossible to be completely free from bio-power's techniques of power, it does not follow that being subject to these new forms of societal control must be equated to being in prison (McGaha, 2000).

5.3.2 Resisting Modern Power

The modern power described by Foucault is spread throughout society and not situated in any particular region. For this reason, the resistance to this form of power or the struggle against it must also take on those characteristics, since resistance should correspond to a particular form of power. I have previously noted that power produces individuals and equips them with the disposition to discipline themselves. As a result, the mechanisms which are necessary to effectively resist modern power must focus on the productive aspects of power and its techniques. For Foucault, resistance is the odd term in power relationships. What this means is that resistance evades and threatens power. Power can produce its own adversary, which is why disciplinary power takes precautionary measures to separate individuals from one another so that collective action is prevented (Pickett, 1996: 458-459). If power is defined as "a pure limit set on freedoms", then resistance amounts to a testing of these limits (Foucault,

1978: 86). And since Foucault's critical analysis focuses on the practical and continuous, rather than the ideological then freedom must consist in an on-going activity. Resistance to modern forms of power focuses on being productive, since it corresponds to a form of power which is productive rather than repressive. Resistance would also be centred on the individual as a subject, produced by the very power which also makes possible its potential to resist.

5.4 Taylor's Critique with Responses

Charles Taylor (1984) provides a critique of Foucault which emphasises the supposed incoherence of Foucault's notion of power as well as the neutral standpoint he adopts in his evaluations of the shift from classical power to modern power. Taylor finds similarity between Foucault's historical analyses of power and the Frankfurt School's notion of power. According to Taylor, while these analyses describe and analyse the events of the past and how they have shaped what we have become, they also criticise old ways in favour of the way things are presently done, according to a critical perspective (Taylor, 1984: 152). Foucault disagrees with this stance, because the historical analyses which brought him to develop a conceptualisation of power, are not aimed at making judgements based on the preference of one system over another, but are rather a study of the contingencies of history.

Taylor finds it paradoxical that Foucault highlights shortcomings of previous systems which exercised power in negative forms, and yet remains neutral to the idea that freeing ourselves from the negative techniques of previous forms of power brings about something positive (Taylor, 1984: 152). According to Taylor, Foucault interprets the development of new forms of discipline as wholly grounded in the way it relates to power and domination. In other words, the new forms of power are intended only to serve the ends of controlling individual bodies and populations (ibid.). Taylor wants there to be a "value-related reason" for the shift from classical, sovereign power to modern forms of power, which values human life (Taylor, 1984: 160). Taylor seems to think that modern humanitarianism is the central focus of Foucault's stance. Taylor, however, is misguided in his reading of Foucault's project. Contrary to Taylor's reading of Foucault, the fact that these new forms of power have produced individuals who are genuinely self-disciplined and have made possible the formation of collective societies in which participation is related to the welfare of others, has not been done for humanitarian motives (Taylor, 1984: 164). Foucault, in fact, wants to challenge this humanist perspective. Foucault does not begin with assumptions which pertain to our essence or human nature (Rajchman, c1985: 78). Rather than seeing humans as possessing a true nature, Foucault, influenced here by Nietzsche, regards all views of human

nature as expressing histories and social practices which have had the ability to be otherwise. Any theory concerned with what a person ought to be like by nature is incorrect and has constraining effects on the possibilities for human beings. Such theories also have the negative effect of excluding individuals who do not fall into the category of "nature". Foucault repudiates the aspect of humanism which ascribes normalising characteristics to individuals based on discourses of criminology or psychiatry (Pickett, 1996: 452). Foucault's critical theory does not depend on the humanistic idea that there is a truth about us – an essence – that needs rescuing from the repression of power (Rajchman, c1985: 89). The new modes of power make people more accessible, through sexuality in *The History of Sexuality: Volume 1*, allowing both for the discipline of bodies and the regulation of population. This means that the mechanisms of modern power, by focusing on sexuality, populations and the everyday functioning of individuals, becomes strengthened and deeply entrenched in people's lives (Foucault, 1978: 154).

In bringing to light a more modern form of power, Foucault does not evaluate it as an improvement from previous forms of power. An example of this is the shift from public executions and the display of punishment in ancient times, to bio-power, which appears to be a better alternative because of its focus on the administering of life without the use of violence or public spectacle. Seen in a different light, however, people's daily lives and their interaction with others and with themselves also became something of public interest since it affected the overall functioning of society at large (Foucault, 1978: 140). This shows that although life is valued in the newer form of power, the aim was still to gather information from people, analyse it and use it to control society. Foucault responds to this charge of value-neutrality by arguing that his objective is not to provide solutions or alternatives to the way power manifested itself in history. In fact, he explicitly states that he rejects the word "alternative" (Dreyfus & Rainbow, 1982: 231). In an interview, he states that he does not want to make it a point that everything is bad; but rather that everything is dangerous. This means that there is always something to do – we are required to act. Rather that providing solutions or alternatives, we merely act in ways we see fitting to particular contexts. Furthermore, human beings inhibit a world that is always changing, which means that problems and dangers change as well. The replacement of old systems, mechanisms or institutions with new ones, does not necessarily mean the new is an improvement of the old. Rather, the need arises for a certain way of doing things based on the fact that a new problem or context has also arisen.

Taylor also mistakes Foucault's "critical theory" as that formulated by traditional critical thinkers such as Habermas and the Frankfurt School. These thinkers associate their theories with terms such as alienation, mystification and repression, by making the assumption that human beings have a fixed human nature. Their critical theories imply that institutions of power repress our human nature and that in order to be free we need to do away with those institutions. Critical theorists are also heavily influenced by Marx's economic theory (Rajchman, c1985, Corradetti, 2011). Foucault's is engaged in a critical theory which attempts to bring certain norms and ideals to light through rationalisation (Rajchman, c1985: 79). His critique is that of uncovering forms of power in society that were unacknowledged before. Again, his critique is not based on revealing a hidden truth about our nature or the part we ought to play in history and so he does not adhere to the traditional form which critical theory takes. The critical analysis that Foucault is engaged in does not bring about a fixed solution and so, it is not to favour one system over another. The aim of his critical analysis is not to flesh out a moral good or a lesson we can learn from the past so that we can change the situation through revolution. There is no sequence of events that Foucault spells out. Rather, he uses his analyses to show us that our present reality could have been otherwise (ibid.). Without a commitment to the traditional critical theory which Taylor attributes to Foucault, it follows that Foucault is not compelled to criticise society and its institutions against some ideal standard of life (Rajchman, c1985: 80-81). Taylor is, therefore, mistaken in postulating that "Foucault's analyses seem to bring evils to light", in reference to older systems of power in contrast to new ones (Taylor, 1984: 152). I would say, rather, that Foucault brings issues to light, in both classical and modern forms of power and analyses how it is that we have been made subjects. In proposing that there is always something to do, Foucault calls upon us to engage in critique that has no fixed ends but should be always investigating the changing mechanisms of power fund through history (Rajchman, c1985: 84).

5.5 Where power relations and liberty interact

What is important in a discussion of the interaction between power relations and liberty, is a realisation that we are in a context where "the challenge is not only to promote freedom, but also to govern it", and this "governing" of freedom involves power relations – both between citizen to citizen and between citizen and state or government (Hindess in Ivison, 2011: 11). Since individuals under the protection of state laws all need to protect their personal liberties,

there needs to be a governing of the way people live. Government, order, restrictions and the like become pertinent to the realisation of liberties, although this seems paradoxical. Simply put, we need centralised power if we want to enjoy liberty and especially, if we want to enjoy liberty that is of value to us in the long run and in our pursuit of our rational goals and desires. Although it sounds contradictory to say that liberty must be governed or controlled, when we consider what liberty is valuable for it is important and necessary for this to be done. Also, if there were no limits placed on individual liberty, then most people would not be free at all.

If Foucault is right that power operates in this way in modern society, then liberty would need to exist within power relations which are as fair and as just as possible. With reference to Slaveland, the first group of slaves are still not in a fair relation to their master because they cannot resist their master's power. They are not free to choose (or at least to choose in a way which has any significance). Let us compare the first group of slaves with the second, especially in terms of what freedom they are able to practice. The first group with a benevolent master cannot revolt against their master, they cannot run away without being caught and then punished by Slaveland Law. They can decide on a few things like when to take a break and how to spend their free time, but even then not every option is available to them and their master, by not interfering much in their lives, is not at all empowering them. He is not providing them with pay, an education or offering to take care of their children. If he offers them anything, these things are very mundane and do little to help rational beings pursue their bigger goals. So these slaves and those in the second group with a harsh master, are still not given just amounts of liberties and basic rights as compared to their owners.

Chapter 6: Interpretative Analysis

6.1 Introduction

The last part of my research report is dedicated to applying a Foucauldian conception of power in order to figure out how power relations, as described by Michel Foucault, operate within a libertarian and an egalitarian liberal state, respectively. This, along the working definition of liberty, will enable us to see in which of the two individual liberty is best realised. I have remarked that the aim of my research report is not necessarily to choose one or the other, as the two political set ups both have their merits and flaws with regards to promoting individual liberty. However, it is important to use the two for comparative purposes and so that I have a point of reference in highlighting the strengths and weaknesses of both types of state. What I do in this chapter is spell out what would happen when the different conceptions of power are applied to the different sides of the debate. I then also mention what implications a modern conception of power would have on each political settings. In order to avoid being biased, I do also address some of the concerns and possible criticisms of the modern conception of justice.

It is not within the scope of my research report to address all the implications and I also do not have the knowledge of political theory required to deal adequately with some policy implications that might come up. I am of the opinion that this leaves room for political theorists and political realists to further add on to my suppositions, especially since they are concerned with the actual mechanisms which exist in a society and how to analyse political behaviour.

6.2 Applying new conception of power

Recall that there are two different ways of approaching the liberal tradition, the Rawlsian which is called egalitarian liberalism and the Nozickian way, which is called libertarianism. As discussed, libertarianism argues that the fundamental role of the state is to safeguard our negative liberties and basic rights. In other words the state must protect us from fraud, theft and coercion from others. The libertarian is of the opinion that the state can only legitimately enforce negative liberties, whereas the liberal egalitarian enforces both negative and positive liberties. Nozick has argued that the state should only serve a minimal role, as a protector of our right not to be interfered with. The state has no business interfering in our personal

activities and decision-making, unless of course our personal decisions restrict the negative liberties of others or harm others.

It seems obvious that under a libertarian view, a state which does anything more than play a protective function would be infringing upon our individual liberties. This suspicion of the state from libertarians stems from the old conception of power as repressive. According to libertarians, adding positive liberty o the mandate of the state gives them more power. What this then amounts to is a situation where the state has more power than the individual and where they are continuously in a negative relationship with one another. The state can raise taxes and increase the prices of goods, amongst other things and make people have to work more in order to be able to do the things they want to do. The state can order its citizens to do as it says and they severely punish those who go against its orders. It is completely unjust for the state to be able to affect personal lives in this way, and especially through the use of threats and coercion.

What happens when we import a new conception of power within the libertarian argument? If power is more diffuse, rather than being located on one group or in a sovereign then the state does not have as much power as one would think. Yes, the state would be extremely involved in the lives of its citizens but this would be for statistical regulation. Since power is everywhere, there would be more mechanisms in place to prevent the government from possibly misusing its power. The state, through different mechanisms and attempts to discipline deviants and keep a watchful eye on criminals, produces self-governing individuals. When one is able to govern oneself, one is freer than one was before because this also contributes to one's ability to pursue and realise his or her goals. The state would also have more resources if positive liberty were introduced, thereby increasing individual capabilities and making it easier for people to pursue their rational life plans.

Once we realise and accept that the state's influence and power is ever-present and has become more diffuse and pervasive in the modern world, we can promote the idea that the state can be used as a way of advancing both individual and social well-being (Fitzpatrick, 2011: 89). The Liberal Egalitarian is well on its way to embracing this idea and rightfully so. Individuals in society who receive support, first in terms of having an equal distribution of rights and basic liberties, and secondly, in the form of welfare support from the state, are in a better position to fulfil their rational life plan. The least advantaged in society would be better

off because of such support and so they would have a more positive outlook on being able to fulfil their life plans.

6.3 Implications on the debate

Under Rawls' Liberal Egalitarianism, it is just for the state to be a lot more involved in social and economic affairs of people, if this is to help the least well off in society. If the wealth and income of the richest in society leaves the poor in a bad position, the state would be justified in redistributing that wealth and income to a point where the least well off are advantaged. The types of measures which would be put in place would be increasing taxes in proportion to earnings and increased spending of state revenue on the poorest. In terms of modern power, it might even be considered just for people's earnings to be transparent for government usage. The state would need to keep an eye out for household dynamics and statistics such as birth rates, death rates, health indexes, and so forth in order to monitor populations and order them in such as a way as to promote optimal living. Of course, all of this would come at an expense, as the state would have more oversight and knowledge of almost everything. However, if we look at modern society today, this sort of supervision is not a new idea.

One provision is that there should be oversight not only of the citizens but also of the state. There are various bodies within the state, rather than state power being housed in one person or one small group of people. In most modern democracies today, there is an executive, a legislature and a judicial system, which all support one another but also ensures that there are institutions in place to hold those in power accountable. Montesquieu (in Fitzpatrick, 2011: 87) calls this a 'separation of powers', which makes it easier for checks and balances to be in place.

Treating individuals in this manner and making equality alongside liberty, important political values has more benefits to society than harm. For one, there is a considerable amount of evidence presented by Wilkinson and Pickett (in Fitzpatrick, 2011: 38) that equality is more often than not good for society. This is because individuals always see themselves in relation to others, and when there is inequality, materially, emotionally or economically, an individual's insecurity becomes increased. This insecurity leaves a person feeing vulnerable, anxious, fearful, ashamed or more selfish. In societies where there is inequality, people see one another as obstacles or as barriers. While there is nothing wrong with competiveness, it is not ideal for a society's citizens to see one another in a negative sense. The outcome of the

obsession to have more than the next person or to make the next person suffer in order to advance one's own interests, especially in modern times, is an increase in depression and apathy which causes suicide rates to increase. This also causes crime to be on the increase and creates a cycle of poverty and hostility (*Ibid.).* It is, therefore, beneficial to the entire society to enjoy more rather than less equality, as this also promotes tolerance amongst society.

Chapter 7: Conclusion

Although there are still many theorists who worry about the amount of power given to states and would object that even with the mechanisms employed by modern power, we could have any liberty at all. However, I am more interested in what there is to gain from having a pervasive state power. For one, since it is not realistic to expect individuals to be perfect and always moral, it is important to have centralised oversight over the citizens of a society. It is also the most rational thing to do to confer more responsibility to the state to act in the interests of the people, whether this be in a protective role, where the state safeguards our negative liberty, or to provide mechanisms of support for the least advantaged members in society, where the state also ensures that it contributes to our positive liberty through enabling mechanisms.

The distribution of social primary goods, such as liberty and equality, impacts on one's ability to realise their rational life plan. For this reason the state must do what it can to ensure both. Liberty is valuable because it enables us to pursue a rational life plan for ourselves so giving the state this "power" need not be a negative thing, especially since I have argued that Foucault's conception of power is right.

What I have not been able to do and what would be important in a complete answer to this question is to look in the implications such an analysis on power has for political policy implementation. Questions such as 'how would modern power and liberty work together in an actual state' still need to be thought about and assessed in a less normative way.

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