

Freedom versus liberty in an international perspective

Grahame Lock, RiMUN, 16 December 2005

Freedom is not only, and in fact is not primarily, an academic question. It is a real-life problem, or sometimes the solution to such a real-life problem.

Let me quickly recall in this connexion a few, arbitrarily chosen cases in which freedom became a life-and-death issue.

One evening after the Second World War, Stalin was listening to the radio and heard a performance of Mozart's piano concerto no. 23, played by the great Russian pianist Maria Yudina (a friend, by the way, of Boris Pasternak). Stalin phoned the Director of the Moscow Radio station and asked for a copy of the gramophone recording. But the performance had been live: there was no recording. The Director, in panic, called back the orchestra, conductor and pianist, and they worked through the night to make the missing recording. It was delivered to Stalin at breakfast time.[2] He was delighted by the result, and sent Yudina a gift of 20,000 roubles. Yudina, a devout Christian, wrote back to Stalin: "I thank you, Iosef Vissarionovich, for your help. I will pray night and day for you and beg God to forgive you for your terrible sins against your people and country. God is merciful, he will forgive. As for the money, I am giving it to the church I attend." [3]

For far slighter offences than such a letter, the punishment was standardly death, without trial. But Yudina survived. No-one knows quite how. She risked everything, her freedom and her life, for – I suppose – God. Note that there are thus situations in which at least a few are prepared to sacrifice their freedom, for something that matters more – perhaps freedom of another, more or even infinitely more important kind.

A second example: the great historian of law, art and ideas, Ernst Kantorowicz, who had left Germany behind after the Nazi seizure of power and been appointed professor at the University of California, Berkeley, was informed by the University authorities that all of its teachers and researchers were to be required to take a "loyalty oath", including the words: "I am not a member of the Communist Party...". Kantorowicz, who had already in Germany refused to swear a loyalty oath to the Nazis, now declined to swear the oath demanded by the anti-Communist legislature of the State of California. He resigned and left Berkeley, to its – and California's – eternal discredit.

The oath, he wrote, is a "shameful and undignified thing", "an affront and a violation of both human sovereignty and professional dignity". A commentator on the case (James D. Mason) wrote "Freedom is essential in the arts and humanities [The university should be a home] where academic freedom protects all, professor and students alike..." [4] Kantorowicz's dedication to academic freedom in fact rebounded to the benefit of colleagues elsewhere in the USA, since he was able to move to Princeton, where he stayed for the rest of his life. Paul Tillich, the Protestant theologian, was one of his friends, and once invited Kantorowicz to give a guest lecture at his own institution in New York, Union Theological Seminary. Tillich's introductory words are recalled by a student of the time, accent and all:

“It giffs me much pleasure to introduce my friend Ernst Kantorowitz, who is a great scholar and interpreter of art. Ve vere teaching togezzer at ze University of Frankfurt. One day zey came to him and zed, ‘Zign ze loyalty oass.’ He said, ‘No. Loyal I am, but ze oass I don’t zign.’ Zo zey zed, ‘Go!’ and he went. He went to ze Univerzity of California. One day zey came to him and said, ‘Zign ze loyalty oass.’ He said, ‘No. Loyal I am, but ze oass I don’t zign.’ Zo zey zed, ‘Go!’ and he went. He went to ze Univerzity at Princeton. And Princeton is not far from New York, zo he can come here, and it makes me happy.”[5]

But that was in the bad old days, when the US Administration lived in terror of its enemies, and over-reacted. It’s all different now.

Finally, an example from the Netherlands, that of the Nijmegen professor and Jesuit Robert Regout. Regout was professor of International Law here. Two days after the German invasion of the Netherlands, he wrote an article entitled “The legal situation in occupied territory”, reminding the occupier of his legal responsibilities. In June 1940 the piece was published. On 3 July, the Gestapo raided his room in the Molenstraat, but he was not at home. That same evening he gave himself up to the German police. He was arrested, taken to Berlin, then to Dachau, where he died on 28 December 1942. Regout died for, among other things, what he called freedom of ideas.

All these cases – and we could of course add many more – are examples of responses to acute threats to freedom, or to acute expressions of a more general danger.

Such threats may concern an individual, a community or a whole nation. And the perils have not, in our own days, disappeared from the world. A few weeks ago, reading in the train a copy of *Metro* – not a critical-intellectual publication – I noticed the headline “Great Britain almost a police state”. My homeland, land of Magna Carta and Mother of Democracy, almost a police state? What happened?

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And now to the philosophical part of my talk.

In recent years there has been a considerable debate in philosophical circles (as well as in political theory, in economics etc.) about the meaning – or the “true meaning” – of the concept of freedom.

In English, because of the coexistence in a single language community of two linguistic sources, the Germanic and the Latin-French, we often have two words for any one thing. Thus, alongside the Germanic term freedom (Freiheit, vrijheid), we also have liberty (libertas, liberté).

The term liberty is often understood in contrast (as Brian Barry puts it) to “interference, censorship, control, regulation, restriction, constraint” and so on. This means that liberty is taken to be a condition in which a person can get what he or she *wants* (that is the first point) because he or she is not *prevented* from doing so by *other people* or by some human institution (that is the second point). If you can’t do what you want to do, not because anyone is obstructing you, but rather because circumstances, the laws of nature or whatever are getting in your way, then your *liberty* is not affected. You have no grievance against anyone.

This state of affairs, as you probably know, is what Isaiah Berlin, in his well-known essay on “Two Concepts of Liberty”, calls “negative freedom”. [6]

You will notice, by the way, that there is no unanimous agreement on the terminological convention about when exactly to use the word “liberty” and when to use “freedom”. That will not matter much to us today. But let us in any case return to the substantive issue.

There are many things that people want which no-one in particular and no human institution is preventing them from getting. But they don’t always succeed in achieving their ends. I might want to fly through the air like Superman, or walk straight through a brick wall (as the pupils travelling to Hogwarts School do at King’s Cross Station) or swim the Atlantic. Still, I can’t do any of these things; but not because anyone is stopping me. I can’t do these things because they are physically impossible. So in such cases – according to the concept of liberty now under consideration – my liberty is not restricted or constrained. If someone were to stand in front of the only door leading out of a room, and to prevent me from leaving the room, then my liberty (here in the sense of “negative freedom”) would be interfered with. But if the door is physically stuck (perhaps, say, the humidity has caused the frame to swell), then I cannot as a matter of fact get out of the room; but, again, my liberty is not impinged on.

One reason for adopting this conceptual distinction is that there is no point – no political or moral point – in complaining about something that no-one is responsible for. That is why I mentioned the link between a constraint on liberty and having a possible grievance.

But why is liberty valuable? You might think – that is obvious. Who would want to be unfree? Well, quite a lot of people, and for good reasons. Many a professor, to take a trivial example, is pleased to be able to tell his students: “I’d like to read and grade your thesis during the vacation period, but the rules don’t allow it...”. Tying one’s hands – rendering oneself at least temporarily unfree – is a well-known rational tactic in political and economic life. A diplomat, negotiating with representatives of another power, may similarly tell them that he would like to accept their terms for a treaty, but that he is for example bound by an irrevocable decision of his own government to demand a better deal. So he has no room for making concessions; he is unfree; the representatives of the other power are free. So if a treaty is to be agreed (and we may suppose that both sides want it), then they – and not he – will have to make the necessary concessions, just because they are free and he is not. If you want to read more about the logic of such situations, look at the work of this year’s Nobel Prize winner for Economics, T.C. Schelling of Harvard, for instance his book *The Strategy of Conflict*.

At this point I shall have to bother you with a bit more philosophy. Freedom and liberty are more complicated notions than they might look at first sight.

You might suppose that someone is free when he can do or get what he (as a matter of fact) wants. Some philosophers, like Robert Nozick, [7] believe that people should be left free - by other people and by the government – to do what they want, as long as they don’t violate anyone else’s fundamental rights. Other thinkers argue for “maximizing want-satisfaction” among the members of society. This is not the same thing, because it might be that by preventing one person from getting what he wants, others get a lot more of what *they* want. For instance, if a rich celebrity buys up all the seats on the only aeroplane flight this week from A to B, perhaps because he wants to be alone, then he prevents several hundred other people from getting what they want, namely just one seat each on the same flight. On Nozick’s criterion, we may not interfere with the celebrity’s action. On the want-maximizing

criterion, we must do so, because in so doing we increase by many times the total freedom (that is, the aggregate of the freedom of all individuals) in a given society – where freedom means “getting what you want”. In other words: there may in this sense be more total freedom in society if we violate some individuals’ rights, and less freedom if we always respect everyone’s rights. That is already a complication.

But freedom does not necessarily have to do only with getting what one wants. There is for example a view to the effect that if someone’s wants are “synthetic” – that means, if his wants have been “artificially” created or manipulated by others, for instance by a propaganda machine or by the commercial advertising industry (for, say, a particular brand of sport shoes or mobile telephone or television station or whatever), then – on this view – he is not unfree if he can’t get what he wants (Nike shoes or a Samsung mobile phone or Talpa television); rather, that he wants these things at all is itself *prima facie* evidence that his preferences have been manipulated. And to get what you want, when it is something that you want only because you have been brainwashed, is only to compound your unfreedom. This view of freedom is called not want-regarding but ideal-regarding.[8] The ideal in question is non-manipulation.

Consequent liberals[9] – what are nowadays often called neo-liberals – reject such a conception of freedom, because consequent liberals have no ideals; and in a very specific sense. Brian Barry sums up this sense as follows. They hold that what counts is what people in fact want, and moreover that – since everyone’s taste and everyone’s opinion is to be taken as the equal of everyone else’s (this is called “liberal democracy”) – the only criterion of an acceptable public policy is whether or not people’s *de facto* wants are indeed satisfied. In a society where this kind of assumption is widespread (ours is such a society), “we might”, Barry writes, “expect to find that ‘public opinion’ will be very important politically, even on matters ... where untrained opinions are worthless. [For instance] universities supported by public funds will be expected to teach only the views and employ only the persons agreeable to those who pay the taxes.” (In managerialist jargon, this is called accountability.) Or again: “the content of television programmes will be controlled by the sponsors, themselves anxious not to ... offend any portion of the audience by the inclusion of controversial matter; [while] any attempt to reduce the amount of inanity and violence [on television] will be widely construed as ‘censorship’ or even ‘dictatorship’.” [10]

This is why consequent liberals normally hold to a conception of freedom defined in terms of the satisfaction of wants. It could hardly be otherwise: the society in which we now live (not only in the Netherlands but in the whole of the western world) is one in which the economic system depends on a – constantly increasing and continually more sophisticated, massively expensive apparatus of socio-psychological manipulation.

This is not some sort of deep metaphysical claim. It is plain as the nose on your face. To take the obvious example: McDonald’s, the fast food chain, has spent since its foundation in 1948 several billions of dollars on what is called marketing: an astronomical sum – I do not know if the exact total is known to anyone. A less well-known example: the US Army’s advertising budget for the next five years (which is being handled by McCann Erikson) is worth 1.35 billion dollars.

Now organizations don’t spend that kind of money unless it *pays off*. That is to say: manipulation works; it works wonderfully well. I leave it to you, if you are interested, to discover how much money is being spent in the Netherlands, by the business sector (i.e. by

what is called *free* enterprise) in similar manipulative enterprises – that is to say, in getting people to want what business wants them to want.

So the society in which we live (and no alternative to that society is even vaguely on the horizon) is one which is light years away from realizing any ideal of freedom as *non-manipulation* or *self-determination* or (another term for the same thing or similar) as *autonomy*. We are for example light years away from acting on Immanuel Kant's insistent plea that nothing could be more dreadful than that the actions of one man should be subject to the will of another. Now note that my actions can be entirely or partly subject to the will of another – McDonald's or the US Army etc. – even when these actions are themselves expressions of my own will. Indeed, this is the normal case: my will is bent by their will. In our liberal-democratic society, we are standardly not forced by violence or threat of violence to buy Nike shoes or Samsung phones or to watch Talpa television: on the contrary, our wills are so acted on by the surrounding pressures of socialization (controlled of course, but that's obvious – it's a pleonasm to say so – by the economically and politically powerful) that we freely choose what they mean us to choose.

There is – to continue for a moment the philosophical discussion – another, rather different ideal of freedom, namely one which considers someone to be free not when he can get what he wants; not even just when his wants are autonomous or self-determined rather than synthetic; but when those wants are somehow “true”; not only, that is to say, when someone himself determines what he wants, but when what he wants is the *right thing* to want. Some core elements of Kant's thinking on morality go in this direction too: the free man is, in his moral choices, free from the causal influences characteristic of the “realm of necessity”; but that includes any interference from this direction in the processes of his rational thinking. So to be free is (also) to draw rational conclusions and to act on them. One cannot therefore be free to act immorally or unvirtuously. Every free man or woman accepts the categorical imperative: “Act only according to a maxim which you can at the same time will to be a universal law”, that is to say, to be applicable not just to oneself but to everyone. But whatever the philosophical value of this account of freedom, our society and/or its members are, in this case too, light years away from realizing it.

I already mentioned the well-known contrast, originally introduced by Isaiah Berlin, between so-called negative freedom – freedom from interference by others – and so-called positive freedom – which requires an agent to have access to the resources needed in order to satisfy some want or wants. A typical such resource might be education, or health, or more generally a certain level of personal welfare.[11]

This distinction between negative and positive freedom can partly cut across the discussion, to which I referred above, between kinds of wants (arbitrary, self-determined or truly virtuous and so on). For instance, education may be (as it used to be, in any case in respect to its higher forms) understood as in the first instance a means of developing a truly autonomous (the Germans used to say “gebildete”) will in the individual. But it can also be seen (as present-day governments tend to see it) as the acquisition of the technical instruments necessary for an individual successfully to pursue whatever (arbitrary) desires he happens to have.[12] In western society, everyone's taste and everyone's opinion is the equal of everyone else's (see above) – what anyone wants, even if it is André Hazes, is equal to what you want, even if it is Palestrina or Victoria. So the category of high culture is abolished, at least in public policy-making. All becomes just a matter of individual taste.[13]

So powerful is this “intuition” (or prejudice) among certain commentators – namely that nothing counts, from the normative point of view, except the de facto will of the individual[14] – that they believe that such individuals have no duties at all beyond the prudent satisfaction of their own desires. This attitude implies, among other things, that no society or community[15] has any claim on an individual beyond that which he or she may voluntarily bestow on it (a notion generalized in “social contract theory”). So they conclude, in the extreme case – that is to say, drawing the full logical implications of their liberal standpoint – that the State is in essence no more than a club, which each of joins at will, and may also leave at will.[16]

But now to another difficult point.

Much of the debate on individual freedom assumes, as I already briefly mentioned, that people want it, and as much of it as possible. I also suggested that this is not always true. But the reasons for this are not only of the tactical and rational kind which I referred to above. Fyodor Dostoevsky’s Grand Inquisitor (in the *Brothers Karamazov*) tells Jesus, who has returned to earth in the city of Seville, that he, Jesus, in spite of all his merits, made one critical mistake: to assume that people want to be free. But on the contrary, people are in fact looking for someone or something to subject themselves to: in order to avoid shouldering responsibility for the world, and in the hope that their leaders – or the institutions to which they subjugate themselves – will provide them with their daily bread. Not long after Dostoevsky, Sigmund Freud put the point in a different vocabulary: human beings are constantly in quest of a way to regress to the infantile fusion with the mother. They want to set aside, to forget the reality principle, which “miraculously” allows all complex and difficult cares, including moral cares, to be cast off.

Neo-liberal society encourages such enslavement to the pleasure principle, or if you like, to such infantilization – a monotonous and obsessive impulse to break taboos, a never-ending revolt against the paternal law, indeed against the very idea of law, of civil law, therefore of civilization; a non-stop drive for immediate gratification; and so on.

Among the personal strategies making it possible for an individual to live in infantile regression is, notoriously, sexual perversion – that is to say, a return to the polymorphous perversity of early childhood. This, together with many other social phenomena from (at least) Provo times onwards, entails not an emancipation – which it purports to be – but on the contrary an enslavement to the instinctual drives, to the primal phantasies. Long before Dostoevsky and Freud, St Augustine, as you know, identified the problem: “It is a happier thing”, he wrote (in the *City of God*), “to be the slave of a man than of a lust”. The enslavement to corporeality, to the body, of which Augustine speaks, is renewed as a theme in the 20th century. An interesting version is provided by the French-Russian philosopher and diplomat, Alexandre Kojève, who calls it the “re-animalization of mankind” – which he believes is already underway.[17]

Corresponding to the paternal law at the level of the individual, there is the law of nations. For like human individuals, States too have rights, and can be free – or unfree. The freedom of States is codified, in international law, in the doctrine of sovereignty. In his paper on “Critical Liberalism in International Relations”, [18] James L. Richardson writes that contemporary liberal international relations theory suffers from a “normative deficit”. To say that this theory has a normative deficit is, in another terminology, to point out that it is “realist”. Realism is in the last instance a doctrine of physical power: it too is a “corporeal”

theory, where the bodies in question are corpora politica, States or their equivalent, functioning in the international arena.

Now the dominant doctrine, as Richardson notes, is silent concerning “justice and inequality”. To the extent that there is any interest in such questions of normative regulation in international relations, mainly in fact among political theorists and philosophers (for example in what the Middle Ages used to call, and what the Church still calls, natural law), this interest, he adds, “has had no perceptible influence on political practice”.

This fact is hardly surprising, for a number of reasons. I hardly need remind you in this connexion that most professional politicians nowadays, at whatever level, have little understanding of any of the conceptual complications and nuances which we are dealing with here. Members of the present-day political class, with a few exceptions, are not brain-surgeons of thought, but bulldozers, with all the subtlety of those powerful instruments of destruction.

Political life today, in the post-Cold War, monopolar world, is in any case ever more oriented towards “realism”: that is to say, it is in the last resort naked power that is said to count. For instance: you have surely read that the overwhelming opinion of the leading world experts in international law was that the recent war launched by the United States Administration and its allies against Iraq was illegal.[19] You may have followed the convoluted consequences of this war in the US, British, Dutch, European and other political arenas. I am not concerned here with the particular case for its own sake, but with its potential or actual philosophical significance. Just as the human individual, in regression to infantilism, rebels against the paternal law in the name of immediate, corporeal gratification, thus enslaving himself to the instinctual drives and betraying the cause of freedom, so, mutatis mutandis, States may adopt a “realist” position, ignoring (as soon as it is convenient for them to do so) international law, flexing their muscles or (we might say) their arms, and betraying the cause of the freedom previously anchored, however precariously, in international legality.

I already said: the name for the freedom of the nation-States making up the global network of States is *sovereignty*. According to international law – *still* according to international law, in which nothing essential has changed in this respect – sovereign territories are inviolable: see for example the essay by Britain’s leading international lawyer, Ian Brownlie, entitled “International Law and the Use of Force”. [20] As Brownlie points out, some academics are now touting the view that the Westphalian doctrine of sovereign independence – which means, of the freedom of sovereign States – is now becoming outdated or even obsolete. But whatever the theoretical speculations of these academics might lead them to believe, in law they seem to be plain wrong. For instance, as Brownlie remarks, the Foreign Ministers of the “Group of 77” (G-77) – a coalition of 77 developing nations in the United Nations, designed to promote its members’ collective interests – agreed in 1999 a ministerial declaration to the following effect:

“The Ministers ... rejected the so-called right of humanitarian intervention, which has no basis in the UN Charter or in international law.”

This declaration is of decisive significance, given that international law can be changed at all only by consensus. A unanimous bloc of 77 states is thus more than sufficient to bar any change in the direction indicated.

There is no right of humanitarian intervention in international law; similarly there is no general right, as invoked by the US Administration, of so-called “pre-emptive action”. [21] As Brownlie again underlines, the language of the United Nations Charter, including its well-known article 51, “effectively excludes the legality of pre-emptive action”. Nor, in those few and special cases in which strictly limited pre-emptive action would be permitted, may it entail regime change. [22]

The conflict between a “realistic” view of international relations and the view which takes international law to be of paramount importance is well reflected in the notorious essay by the American publicist Robert Kagan, entitled “Power and Weakness”. [23] In that commentary, Kagan writes: “American and European perspectives are diverging. Europe is ... entering a post-historical paradise of peace and relative prosperity, the realization of Kant’s ‘Perpetual Peace.’ The United States, meanwhile, ... [is] exercising power in the anarchic Hobbesian world where international laws and rules are unreliable and where true security and the defense and promotion of a liberal order still depend on the possession and use of military might.” The Kantian conception, his doctrine of the rule of the moral law in the international domain, Kagan calls “a geopolitical fantasy”. On Kagan’s view, freedom is a function of power, of military might. So the Europeans are only playing at the game of the rule of (international) law, a game which would collapse – as would their prized sovereign autonomy – as soon as the American military umbrella was withdrawn.

Kantianism is however not universally welcomed by European scholars as an alternative to American Hobbesianism. A group, for instance a nation, can according to James Tully be “more effectively and economically governed through [its] freedom” – that is to say, through its “participation in relations of governance...” – than by direct and open subjection. [24] In accepting and even celebrating the “freedom to participate”, it thus comes in reality to acquiesce in the existing relation of forces between “hegemonic and subaltern actors positioned in a vastly unequal field of institutions of imperialism”. [25] This then may apply to the freedom of States which, restricting themselves to a formal, Kantian doctrine of sovereignty – that is to say, of self-determination – thereby only “freely” subject themselves to a structure of factual dependency.

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Freedom and liberty are not simple concepts. But to begin to solve the problems of their complexity, philosophizing is not enough. The complications are most effectively revealed in practical struggles for freedom, or rather for freedoms of various kinds – which brings us back to the theme with which I began.

And since I have to end somewhere, I will end here, with a few lines from a poem of the year 1942, by Paul Éluard:

*Et par le pouvoir d'un mot
Je recommence ma vie
Je suis né pour te connaître
Pour te nommer
Liberté. [26]*

- [1] This is the text of the keynote speech as given, with a few ad hoc interpolations, at the RiMUN Conference, 16 December 2005. The footnotes have been added, in some cases just to make it possible for those with an interest to follow a point up.
- [2] More exactly: "Late that night, they all arrived at the recording studio, sleepy and nervous, but ready to make a record. Or some of them were. Soon after starting, the conductor succumbed to the pressure and had to stop. He broke down. Again, the messages flew out, another conductor was woken up and called to the studio. Finally, in the early hours of the morning, the recording started again. But success was not to be had just yet: another conductor, another nervous wreck. A third conductor arrived and the orchestra picked up their instruments once more. A little before dawn, they made it through the piece, the recording made. As quickly as possible, the music was sent to Stalin, who to everyone's everlasting relief couldn't tell the difference between the two performances." Grahame Reynolds, "Stalin's Favorite Pianist", *Austin Chronicle*, 13 February 2004.
- [3] "Shostakovich rightly called this letter 'suicidal'. The warrant for Yudina's arrest was duly prepared, but on this occasion, for some reason, Stalin did not sign it." Daniel Zhitomirsky, *Shostakovich, the Public and the Private: reminiscences, materials, comments, Daugava* (1990, No. 3), fn. 39; English version by Tatjana M. Norbury and Ian MacDonald, at <http://www.siu.edu/~aho/musov/zhito/zhito.html>. It is reported, though I do not know how reliably, that when Stalin died in March 1953, the recording was found spinning on his gramophone.
- [4] Jeffrey D. Mason, "The Loyalty Oath (part one)", published on line in *The Millennium Fool*, April 16, 2001
- [5] Tom F. Driver, "The Tillichian Spell: Memories of a Student Mesmerized in the 1950s", in *Theology Today*, vol. 53, no. 3, October 1996.
- [6] In Isaiah Berlin, *Four Essays on Liberty*, London: Oxford University Press, 1969 (originally his Inaugural Lecture at Oxford University, 1958).
- [7] See his *Anarchy, State, and Utopia*, New York: Basic Books, 1974.
- [8] See Brian Barry, *Political Argument*, London: Routledge, pp. 136-148.
- [9] Most so-called liberals – especially politicians who present themselves under that name – are of course not consequent at all, but mix their liberal positions with non- and anti-liberal positions in dosages suitable for optimizing their chances of (re-)election etc.
- [10] Barry, op. cit., p. 80.
- [11] Or even more generally, money. G.A. Cohen argues (in *Self-Ownership, Freedom and Equality*, Cambridge: CUP, 1995, p. 58): "Lack of money is (a form of) lack of freedom, in the favoured sense of freedom, where it is taken to be absence of interference." The core of his argument is that whoever is too poor to do or get something which he wants, will normally be prevented by human agency from doing or getting that thing. For example, someone who is ill but too poor to buy the medicine needed for a cure, will – if he tries to get it by other means – be physically prevented, for instance by security guards or the police, from taking it from the chemist's shelf. A consequent liberal will of course answer that such a person has no right to take what does not belong to him, and that his freedom is therefore not violated when he is prevented from doing so. But this conception of freedom has the paradoxical consequence (as Cohen also points out) that we should then have to say, for example, of a jailed prisoner that although he sits chained in a locked prison cell – locked by human agency, i.e. by the prison guard – he is not unfree. This, by ordinary standards, is a paradoxical and indeed perverse use of the term freedom. So the intuitive attraction of the notion of freedom, which is relied on ideologically by the proponents of negative freedom, now fails.
- [12] Or to make a contribution, through being hired on the labour market, to the pursuit by some business or other organization of the goals which that organization happens to have, goals which will typically lie in the satisfaction of the (arbitrary) desires of the consumer – this satisfying of the consumer being what enables the business to make (maximum) profit.
- [13] It has become common practice among (for example) government ministers and other leading political figures, who are currying popularity (as the liberal-democratic system requires them to) among the masses of the population, to make ostentatious display of their admiration for some commercial musical celebrity currently being marketed by the mass media; or to make a guest appearance in a television soap opera or the like; or to feign friendship with leading personalities in the "popular culture" business, to award them public "honours" and so on... The current British Prime Minister is a past master

in this strategy; and some members of the Dutch political class seem to be not far behind. When a sometime British Minister of Culture asserts in public, as he did, that the poetry of Bob Dylan is artistically on a par with that of John Keats, he is not saying something daringly true (or even daringly false) but just reproducing, for the thousandth time, the threadbare ideology of infantile phantasy.

[14] What right does anyone have – is the spontaneous cry – to tell me what I ought to think or to want?

[15] Mrs Thatcher, British Prime Minister from 1979 to 1990, famously asserted that “there is no such thing as society. There are individual men and women...”

[16] A citizen, on this view, is, if not always a shareholder, at least – but also no more than – a “stakeholder”, for example in “Nederland BV”.

[17] See Kojève, *Introduction to the Reading of Hegel*, Ithaca: Cornell University Press, 1980, p. 159 (footnote to the Second Edition): “If Man becomes an animal again, his arts, his loves, and his play must also become purely ‘natural’ again. Hence it would have to be admitted that after the end of History, men would construct their edifices and works of art as birds build their nests and spiders spin their webs, would perform musical concerts after the fashion of frogs and cicadas, would play like young animals, and would indulge in love like adult beasts... What would disappear, then, is not only Philosophy or the search for discursive Wisdom, but also that Wisdom itself. For in these post-historical animals, there would no longer be any ‘[discursive] *understanding* of the World and of self’.” Kojève adds: “At the period when I wrote the above note (1946), Man’s return to animality did not appear unthinkable to me as a prospect for the future (more or less near). But shortly afterwards (1948) I understood that the Hegelian Marxist end of History was not yet to come, but was already ... here and now... I was led to conclude from this that the ‘American way of life’ was the type of life specific to the post-historical period, the actual presence of the United States in the World prefiguring the ‘eternal present’ future of all of humanity. Thus, Man’s return to animality appeared no longer as a possibility that was yet to come, but as a certainty that was already present.”

[18] Department of International Relations, Canberra: Australian National University, 2002.

[19] A view shared by the Secretary-General of the United Nations: it was reported on 16 September 2004 that “the United Nations Secretary-General Kofi Annan has told the BBC that the US-led invasion of Iraq was an illegal act that contravened the UN charter.” Annan’s statement provoked rage among supporters of the US action. The Heritage Foundation (a conservative American think tank) argued not only, predictably, that “Annan’s statement that the war was ‘illegal’ is both false and spurious”, but much more interestingly that “by Annan’s logic, the 1999 US / British-led intervention in Kosovo, which was conducted without benefit of a Security Council resolution, also would be ‘illegal’ despite the fact that it was widely supported by the international community.” (James Phillips and Nile Gardiner, “Kofi Annan’s Iraq Blunder”, Heritage WebMemo no. 567, September 17, 2004.) Can the “international community” collectively violate international law?

[20] In *Chinese journal of international law*, Chinese Society of International Law, vol. 1, no.1, 2002, pp. 1-19.

[21] The official National Security Strategy of the US Administration states: “The United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction— and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.” – See <http://www.whitehouse.gov/nsc/nss5.html>.

[22] British House of Commons, Select Committee on Foreign Affairs, Minutes of Evidence: Memorandum from Professor Ian Brownlie QC, “Iraq and weapons of mass destruction and the policy of pre-emptive action”, October 2002.

[23] In *Policy Review*, June-July 2002.

[24] For a thoroughgoing analysis of how governance systems, by encouraging the participation of “stakeholders” in policy-making, in fact contribute to a depoliticization of the public sphere and to a rolling-back of democracy, see John Brown, “*De la gouvernance ou la constitution politique du néo-libéralisme*”, at <http://attac.org/fra/list/doc/brown.htm>: “Governance seems to be the project of political organization best adapted to neo-liberalism... Governance aims at eliminating the last possibilities, however formal, of allowing the majority forces in society to exert their influence... The aim is to liquidate the very foundations of democracy – and yet in a way which looks new and libertarian. The project of

devolving power to civil society means, in spite of the appearances, the disappearance of the public space in which the real political input of citizens occurs. This public space is replaced by the private space of the market and so-called 'civil society'. The haggling and the private deals characteristic of civil society replace the old baubles called the law and the principle of legality."

[25] "On Law, Democracy and Imperialism", Twenty-First Annual Public Lecture, Centre for Law and Society, University of Edinburgh, March 10-11, 2005, p. 25.

[26] And by the power of a word / I regain my life / I was born to know you / To name you / Liberty.