

A Reconsideration of the Liberty versus Security Debate

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Today we hear a lot about the threats of terrorism and diminishing civil liberties in society as a response to these threats. There is much debate not only at the level of the national government¹ and media² but also in academics³ concerning the challenges terrorism presents for the preservation of civil liberties. The debate, of course, is not a new one and can be boiled down (admittedly rather simplistically) to an argument over the seeming trade-off between the values of “liberty” and “security.” In the past, philosophers seemed to examine these societal goods not only in terms of intrinsic worth both also in terms of their instrumental value in the lives of the members of a society.⁴ The “trade-off” was indeed complex. For much of current scholarship, however, liberty and security are for the most part treated only as intrinsic goods.⁵ Those who favor national security argue that security is of principal importance since, they argue, liberty itself cannot be enjoyed without a base level of security. Those who favor civil liberties argue that to restrict liberty for the sake of security defeats the purpose of supposedly needing security in order to maintain liberty. Borrowing Jeremy Waldron’s terminology, these “security partisans” and “civil liberties partisans”⁶ relegate the debate to an unsolvable argument of the extremes. In this paper I shall argue that by treating liberty and security as intrinsic goods in the midst of the current debate concerning potential trade-offs is thus a theoretical dead-end, and that, alternatively, we should look to the instrumental values of both liberty and security and use this as a measuring rod for evaluating policy decisions.

The Concept of Liberty

¹ See Dept. of the Air Force (2002); *Hamdi v. Rumsfeld*; Subcommittee on National Security (2006); and U.S. Dept. of State (2005).

² See Carlson (2004); Carlson (2005); Clymer (2002); and Kristoff (2002)

³ See Dershowitz (2002); Humphreys (2004); Lewis (2005); Aradau (2007); Waldron (2003); and Waldron (2007).

⁴ See Mill (1910); Hobbes (1998) and (2001); and Strauss (1987).

⁵ See Cohen (2002); Griffiths (1983); Humphreys (2004); Ignatieff (2004); Posner (2006); Leone and Anrig (2007); and Southwood (2004).

⁶ Waldron (2006).

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In discussing a potential trade-off between liberty and security, it is important that we gain some sort of grasp of what is at stake. The concept of liberty is indeed highly complex and to explore it completely is by no means the task of this paper. Not only can the evaluation of liberty involve the philosophical discussion of liberty as a concept by itself, but it also involves the discussion of different individual liberties.⁷ Here I simply intend to summarize some of the fundamental conceptions.

Positive & Negative Liberty

Fundamental to today's discussion of liberty is Isaiah Berlin's distinction between "positive" and "negative" liberty. Positive liberty, for Berlin, is an active principle. It is the possibility of freely acting out one's ends, or self-realization, and "derives from the wish on the part of the individual to be his own master."⁸ Negative liberty, on the other hand, is the absence of constraints to one's will. This is the conception affiliated with the Classical Liberal tradition in which liberty is seen as 'freedom from interference,' provided that one's will does not impinge on the rights of others.⁹ In a sense, negative liberty can be seen as an absence of constraints on positive liberty. In looking at the situation in the world today, considerations of freedom in Berlin's terms require us to evaluate the liberties of citizens and non-citizens. In light of threats of terrorism, liberty needs to be considered not only in a positive sense, but especially so in the negative one. For example, potential terrorists who are U.S. citizens are guaranteed rights that accompany that status; however when the will of a suspected terrorist is to harm others, a discussion of a restriction of that person's liberty may have to be undertaken. Likewise, considerations of wiretapping, data mining, torture, and other restrictions on civil liberties need to be considered in terms of how much these measures restrict everyone's right to self-determine.

Liberty as Non-Domination

⁷ See Pettit (1997); Becker (1984); and Griffiths (1983). Berlin's negative liberty conception is also quite similar to Benjamin Constant's "liberty of the moderns" in terms of their viewing liberty as a freedom from interference. See Constant (1988).

⁸ Berlin (1997), p. 203.

⁹ For instance, Mill wrote that "the only purpose for which power can be rightly exercised over any member of a civilized community, against his will, is to prevent harm to others." Mill (1910), p. 73.

Berlin's negative conception is essentially a freedom from interference, but as "Philip Pettit has forcibly reminded us, not all forms of interference are on the same liberty-infringing footing."¹⁰ Pettit's "third" conception of liberty is that of liberty¹¹ as non-domination, where "[f]reedom as non-domination is defined by reference to how far and how well the bearer is protected against arbitrary interference."¹² This conception is a response to Pettit's objection that it is possible to face domination without interference and also possible to be interfered with, without being dominated. For example, he argues that one could be enslaved but basically let alone (domination without interference) or, alternatively, one could be subject to just laws that restrict complete freedom without facing domination (interference without domination).¹³ Pettit's conception helps to expand the meaning of liberty by adding that it "needs something more than the absence of interference; it requires security against interference, in particular against interference on an arbitrary basis."¹⁴

Liberty as License

In the discussion of liberty, it often seems that liberty is considered as equivalent to license. In this sense, liberty simply means the freedom to do absolutely anything one wants, whenever one wants, without facing any restrictions or potential punishment. Early political philosophers, however, recognized that liberty amounting to nothing more than license could in fact lead to a reduction in liberty. As Locke considered,

"Freedom then is not what Sir Robert Filmer tells us . . . 'a liberty for every one to do what he lists, to live as he pleases, and no to be tied by any laws.' But *freedom of men under government*, is, to have a standing rule to live by, common to every one of that society, and made by the legislative power erected in it; a liberty to follow my own will in all things, where the rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man: As *freedom of nature* is, to be under no other restraint but the law of nature."¹⁵

¹⁰ Southwood (2004), p. 29.

¹¹ I use the terms "freedom" and "liberty" interchangeably.

¹² Pettit (1997), p. 109. *See also* Pettit (2005).

¹³ *Ibid.*, p. 80.

¹⁴ *Ibid.*, p. 51.

¹⁵ Locke (2001), p. 631. (Ch. IV).

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Locke's "freedom from nature" is what Hobbes and others called (in another context) the "state of nature"—"a state of lawlessness [and] a condition in which we are free from the binding force of any agreed human laws."¹⁶

Law, Locke recognized, was indeed an impingement on license, but liberty within civil society allowed men the freedom to pursue their own ends. Rousseau makes a similar distinction to Locke, calling the two states of liberty "natural liberty" (license/ the state of nature) and "civil liberty" (liberty within the bounds of civil society). For Rousseau, man surrenders his natural liberty when he enters into the social contract in order to secure civil liberty for himself: "What man loses by the social contract is his natural liberty and an unlimited right to everything he tries to get and succeeds in getting; what he gains is civil liberty and the proprietorship of all he possesses."¹⁷ Ironically, liberty (as license) had to be restricted by law for the sake of liberty itself.¹⁸ Bentham too recognized this in 1843 when he wrote:

"By creating obligations, the law to the same extent trenches upon liberty. It converts into offenses acts which would otherwise be permitted and unpunishable. The law creates an offense either by a positive command or a prohibition. These retrenchments of liberty are inevitable. It is impossible to create rights, to impose obligations, to protect the person, life, reputation, property, subsistence, liberty itself, except at the expense of liberty."¹⁹

"There is therefore a sense in which, in agreeing to give up our natural condition, we must be deciding to give up a form of liberty";²⁰ however, if everyone were "free" in the sense of being totally unrestrained, would this constitute a complete conception of freedom? No, D.D. Raphael points out, because "[c]omplete freedom soon leads to no freedom at all. . . . [since] complete

¹⁶ Skinner (1990), p. 133. *See also* Rousseau (1993), esp. pp. 196–197.

¹⁷ Rousseau (1993), p. 196.

¹⁸ One example of liberty restricted for the sake of liberty in practice is cited by Herbert Hoover, writing in 1934:

"The American system has steadily evolved the protections of Liberty. In the early days of road traffic we secured a respect for liberties of others by standards of decency and courtesy between neighbors. But with the crowding of highways and streets we have invented Stop and Go signals which apply to everybody alike, in order to maintain the same ordered Liberty. But traffic signals are not a sacrifice of Liberty, they are the preservation of it. Under them each citizen moves swiftly to his own individual purpose and attainment. That is a far different thing from the corner policeman being given the right to determine whether the citizen's mission warrants his passing and whether he is competent to execute it, and then telling him which way he should go, whether he likes it or not. That is the whole distance between Liberty and Regimentation." Hoover (1934), pp. 199–200.

¹⁹ Bentham (1931), p. 94. Part I, Ch. I: "Objects of the Civil Law."

²⁰ Skinner (1990), p. 133.

freedom for all means the absence of order; the absence of law; anarchy, chaos.”²¹
 In discussing the trade-off between liberty and security, then, it is important that liberty be considered as something much more complex than license.²²

Prior Needs to Liberty & The Priority of Liberty

In expanding the concept of liberty, it is important to also consider that there may be prior needs that must be fulfilled before a society can enjoy—or even desire—liberty. In *A Theory of Justice*, John Rawls argues for the principle of the “priority of liberty” in which “liberty can be restricted only for the sake of liberty itself.”²³ However, Rawls does admit that there may be certain social conditions that must be satisfied prior to a society being able to enjoy its liberty. Indeed Rawls does explain that although liberty does take precedent, it can be sacrificed for a short while in order to satisfy other needs of a society before liberty (above all else) can be pursued.²⁴ This of course seems logical, for example, given that without the ability of a society to provide (through its wealth) for its citizens, the full exercise of civil liberties might be of secondary concern (at least temporarily). In order to better explain Rawls’s ideas about the priority of liberty, Brian Barry builds on Rawls’s idea of effective liberty to better relate the relationship of wealth to liberty. “Effective liberty” is thus the type of liberty that is meant in understanding the priority of liberty. The idea is that no amount of basic liberty, however great, produces any effective liberty unless it is combined with some minimum level of wealth. In other words, it does not matter if you have a maximum amount of freedom if you have no money. Likewise, no amount of wealth, however great, produces any effective liberty if it is not paired with some basic liberty. Thus you could have a great deal of wealth, but without basic liberty, it is of no use to you. Effective liberty Barry has determined to be a product of basic liberty and wealth.

²¹ Raphael (1983), p. 1.

²² Adam Smith and Immanuel Kant both rejected the idea of considering true liberty as a form of license since they argued that “freedom as license” amounted to people merely being slaves to their passions, in which case they would not truly be free. See Smith (2000) and Kant (1996) and (2006).

²³ See Rawls (2001), §39. “The ideal is that of a public-spirited citizen who prizes political activity and service to others as among the chief goods of life and could not contemplate as tolerable an exchange of the opportunities for such activity for mere material goods or contentment.” Hart (1973), p. 554.

²⁴ “If the persons in the original position assume that their basic liberties can be effectively exercised, they will not exchange a lesser liberty for an improvement in their economic well-being, *at least not once a certain level of wealth has been attained.*” Rawls (1971), p. 542. Note that Rawls removes this italicized clause in his revised edition. See Rawls (2001), pp. 474–475.

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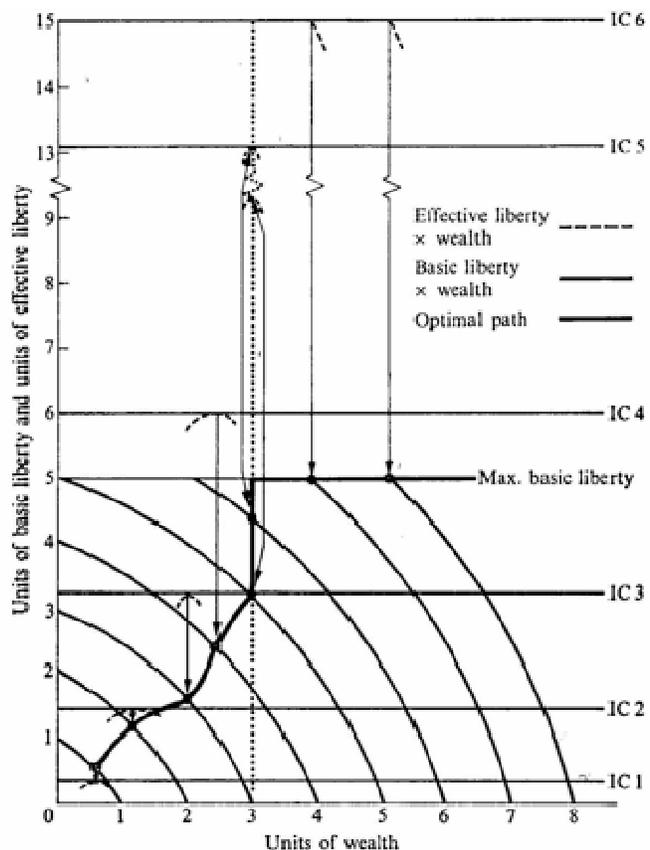
There is an upper bound to the amount of basic liberty, which on the diagram is set at 5 units.²⁵

Since this is set at 5 units and the most by which units of basic liberty can be multiplied to give units of effective liberty is a factor of three (wealth), it follows that there is a maximum of effective liberty at 15 units. This new diagram also accounts for Rawls's idea that liberties can in fact be sacrificed for an increase in wealth for the purposes of raising the "level of civilization."²⁶ Effective liberty is also set at zero when there are no units of wealth, and beyond 3 units of wealth, increases in wealth do not amount to any increase in effective liberty. Thus "once some minimal level of economic development has been achieved by a society (that is, once it gets to a feasible set of combinations of wealth and liberty which lies some distance from the origin) the pursuit of further equal liberty has absolute priority over the pursuit of increased wealth (that is, the optimal path has become parallel to the 'liberty' axis)."²⁷

²⁵ Barry (1973), p. 79.

²⁶ Wealth and liberty here are defined in aggregate terms and refer to society as a whole.

²⁷ *Ibid.*, p. 82.



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 Apart from the discussion of a minimum level of wealth being necessary for a society to pursue the full exercise of civil liberties it is also certainly possible that a minimum level of security be necessary in order for

liberty to be “effective” in the Rawlsian sense. William Miles has written on Chad’s failed attempt at pursuing democracy in the early 1990s due to problems of societal instability and a lack of overall security. Miles writes that in 1993, 800 delegates gathered for the *Conférence nationale souveraine* “to chart a new political future for the nation. Participants and onlookers alike shared the hope that, as a result of the CNS, democracy and development would replace dictatorship and civil war.”²⁸ While hopes were apparently high for a transition to a society with increasing civil liberties, the reality of “widespread insecurity . . . [rendered] meaningless the formal exercise of political freedom.”²⁹ Although scattered militias attempted to control various territories, an effective system of justice was not in place, making crimes virtually unpunishable and therefore quite lucrative. For these reasons, Miles argues that a minimum level of security is therefore necessary before a society can meaningfully attempt to secure civil liberties.

Returning to the concept of assigning liberty an absolute priority, it is important that we consider whether or not liberty is something that people are indeed willing to sacrifice. Darren Davis and Brian Silver³⁰ have found that people are more willing to sacrifice civil liberties the greater the sense of threat they face. They also found that Americans tended to favor civil liberties over security when these values were presented in the abstract, and that trust in government in general

²⁸ Miles (1995), p. 55.

²⁹ Ibid., p. 57.

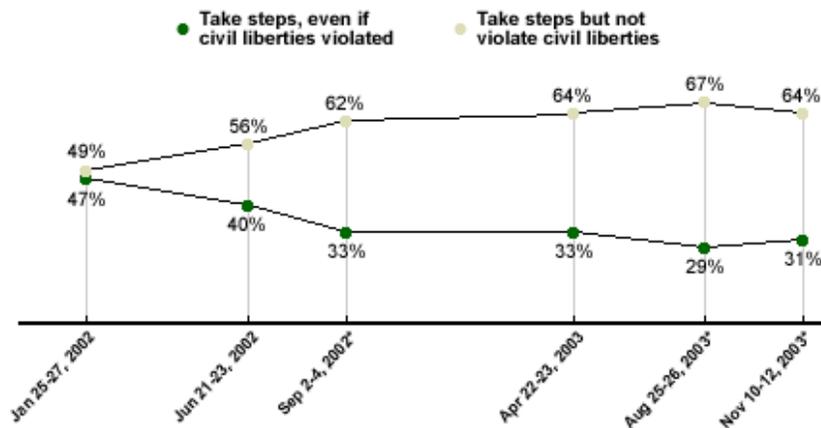
³⁰ See Davis and Silver (2004).

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was a major factor in whether or not people were willing to sacrifice liberty for enhanced security. Consistent with Davis and Silver, Carol Lewis also found that Americans were unsympathetic to sacrifices in civil liberties when presented with specific potential policy measures.³¹ (For example, a majority of Americans thought that “detaining people at airports solely because of their religion” and “making it easier for intelligence and law enforcement agents to monitor people’s private telephone conversations and e-mail” “go too far” in terms of a sacrifice of liberty.³²) The perception of threat seems to be a major factor in whether people are willing to surrender their civil liberties. A few months after September 11, 2001, a Gallup poll showed that 47 percent of Americans thought that “the government should take ‘all steps necessary’ to prevent future acts of terrorism in the United States, even if it meant violating people’s basic civil liberties.”³³ As time passed after September 11th, however, fewer Americans tended to agree with this proposition.

Protecting Against Terrorism vs. Violating Civil Liberties

Which comes closer to your view -- the government should take all steps necessary to prevent additional acts of terrorism in the U.S. even if it means your basic civil liberties would be violated, or the government should take steps to prevent additional acts of terrorism but not if those steps would violate your basic civil liberties?



* Asked of a half sample.

³¹ Lewis (2005).

³² Ibid., p. 24.

³³ Carlson (2004), “Far Enough?”

The Concept of Security

Like liberty, the concept of security is complex, and if we are to examine a potential trade-off between the two, it is important to understand exactly what is at stake. Perhaps the most well-known discussion of security in political philosophy is that of Thomas Hobbes. The Hobbesian conception of security, of course, is centered around the preservation of life.

“The end for which one man giveth up, and relinquisheth to another, or others, the right of protecting and defending himself by his own power, is the security which he expecteth thereby, of protection and defense from those to whom he doth so relinquish it. And a man may then account himself in the estate of security, when he can foresee no violence to be done unto him. . . ; and without that security there is no reason for a man to deprive himself of his own advantages, and make himself a prey to others. And therefore when there is not such a sovereign power erected, as may afford this security; it is to be understood that every man’s right of doing whatsoever seemeth good in his own eyes, remaineth still with him.”³⁴

In transitioning from the state of nature to civil society, people submit themselves to the state for the protection of their lives. The sovereign’s primary function, therefore, is the protection of the lives of his subjects. According to Hobbes, if a person relinquishes his personal sovereignty and submits to the sovereign for the preservation of his life, a government is only legitimate insofar as it protects him. Should the sovereign cease to protect a person’s life, the social contract is thereby abrogated. To require self-incrimination would be to force one to deny himself the very thing he submitted to the sovereign in order to acquire—the assurance of security. (This is the same reasoning behind the Fifth Amendment in the Bill of Rights.)³⁵

The concept of security considered only in terms of the preservation of one’s life, however, is incomplete. As Jeremy Waldron has argued, security entails not only personal safety, but also concerns such as the preservation of one’s *way* of life, an absence of *fear* of threats to one’s safety and well-being, and the assurance of such a security.³⁶ As mentioned earlier, the perception of threat is a major factor in determining whether people are willing to sacrifice their civil liberties for

³⁴ Hobbes (1999), p. 111. (*De Corpore Politico*, Part II, Ch. XX).

³⁵ See Skinner (1990) and Hobbes (2001), *Leviathan* Ch. 17: “If a man be interrogated by the sovereign, or his authority, concerning a crime done by himself, he is not bound (without assurance of pardon) to confess it; because no man . . . can be obliged by covenant to accuse himself.” Hobbes (2001), p. 653.

³⁶ Waldron (2003).

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enhanced security. “To sustain security, therefore, it is not enough that the threats [such as threats of terrorist attacks] be repelled. There must be an *assurance* that they will be repelled, an assurance that people can count on and build upon in advance of the outcome of any particular attack.”³⁷ The *assurance* of personal security (including to one’s life, property, and way of life) is therefore perhaps one of the important elements in the concept of security in general since security by itself would not seem to satisfy anyone’s fears unless it was known that one would *persist* in being secure.

The Trade-off

Those who favor security in the trade-off debate argue that freedom itself cannot be enjoyed without the assurance of security.³⁸ There seems to be some truth in this, recalling the situation in Chad discussed earlier. For example, Miles notes that, “[in]security undermine[d] democratization in both general and specific ways. In general, the free movement of persons and property without risk or fear of molestation is a precondition for all other expressions of democracy and did not exist in the period following the *Conférence nationale souveraine*.”³⁹ Here we see that the lack of security to life and property turned people away from concerns of democratization, despite how strongly that democratization was desired.

In order to better evaluate the nature of the trade-off, it is helpful to it in terms of its extremes.⁴⁰ Considered this way, the “extreme” of liberty would be to maximize liberty for all. In this sense, maximal liberty is like the license conception of liberty where all people are free from any restrictions (thus, all legal restraint) to their individual wills. Liberty in the extreme thus just is the state of nature.⁴¹ Without law and any hindrances to one’s free will, there is no assurance of security, however, and thus “there is also a sense in which every man has very little freedom in the state of nature; for if you have to go in continual fear of your neighbors, if your wishes are always liable to be frustrated by the acts and plots of other men, and in particular if you are always in danger of death, the last thing you want, then you have very little freedom, you have very little real opportunity to do as you like.

³⁷ Ibid., p. 317.

³⁸ See Ullmann (1983); Howard and Sawyer (2005); Lansford and Pauly (2006); Posner (2006); and Posner (2007).

³⁹ Miles (1995), p. 58.

⁴⁰ Since both liberty and security are primarily corporate values when considered in terms of a trade-off in society, I am only evaluating them here in the extreme corporately.

⁴¹ Hobbes recognized this when he wrote: “For if each man allowed to others, as the law of nature requires, the *liberty* which he demands for himself, the state of nature would return, in which all men may rightly do all things; and they would reject that state as worse than any civil subjection, if they knew it.” Hobbes (1998), p. 121. (*On the Citizen*, Ch. X.)

Complete freedom for all means little effective freedom for anyone.”⁴² These, then, are the consequences of maximal freedom.

To maximize security for all, on the other hand, is to strive to protect each person from his neighbor in every possible way. To maximize security necessarily greatly diminishes liberty for all, since with even a minimal amount of liberty allowed, the risk of danger to life and property is enhanced. To minimize these risks and maximize security, therefore, ultimately leads to a sort of totalitarianism.

Considered in the extremes, both liberty and security do appear to be inversely related. How can this be so, however, if some are able to argue that security is necessary for liberty? As Berlin argued, “it remains true that the freedom of some must at times be curtailed to secure the freedom of others. [But upon] what principle should this be done? If freedom is a sacred, untouchable value, there can be no such principle. One or other of these conflicting rules or principles must, at any rate in practice, yield. . . .”⁴³ Because liberty and security are usually treated as absolute values, we are left at an impasse. As Waldron writes, “[t]he civil libertarians emphasize the liberties that matter to us, and certainly it is right to point out that those liberties require security for their meaningful exercise. The partisans of security point out that they are trying to protect our way of life (as well as our lives themselves) against attack, and certainly it is right to point out that you cannot do that if you treat our liberties as unimportant. But still there is a genuine trade-off. Even if it is not a trade-off between one set of values and another quite distinct set of values, it is a trade-off between the importance of protecting certain values in one way and the importance of vindicating certain values in another way.”⁴⁴

For a government to have any legitimacy, we must also strike a fair balance between security and liberty. Indeed, “[n]o government is legitimate if it does not promote security, and we may say that this word ‘security’ captures the pattern of impact on safety that governments are supposed to have as far as that elementary legitimacy is concerned.”⁴⁵ Without providing security, as Hobbes also recognized, the state loses its legitimacy all together; but likewise without liberty, in submitting oneself to the authority of government, one ought to be able to expect that the arrangement is an improvement upon one’s status without government. The solution to the trade-off dilemma, therefore, must be one in which a compromise is struck between these values that takes into account each value’s role in the legitimacy of the state.

⁴² Raphael (1983), p. 4.

⁴³ Berlin (1997), p. 198.

⁴⁴ Waldron (2006), pp. 352–353.

⁴⁵ Skinner (1990), p. 338.

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One of the major problems with approaching the dilemma in terms of one absolute value versus another absolute value is that we cannot help but place the two in an inverse relation—‘if you wish to live in a society with security for all, you must of necessity sacrifice some of the liberty of all, including your own liberty’—and—‘if you wish to live in a society with maximal liberty for all, you must of necessity be putting your life at risk.’ Partisans of neither side can ever be satisfied with a compromise in such terms, for each ‘compromise’ requires at least one side to yield something, which, as an absolute value, is non-negotiable.⁴⁶

Liberty and Security as Instrumental Goods

In looking for a solution to the dilemma, we should not explore only what differentiates liberty and security each as absolute goods, rather we should look at what, if anything, these values share. For example, Waldron argues that “[p]artisans of security may need to face up to the fact that what most people (in this country) want to secure is not just life, but their American way of life, which has traditionally been associated with the enjoyment of certain liberties. Equally, partisans of civil liberties need to face up to the fact that what people want is *secure* liberty, not just liberty left open to abuse and attack.”⁴⁷ Seemingly, proponents on both sides of the debate have something to learn from the other.

Although the discussion of the dilemma tends to focus on liberty and security as absolute goods, we see that, in practical usage at least, partisans of both sides make their case based in some measure on the *instrumentality* of these goods.⁴⁸ Both liberty and security—while they may be prized as absolute goods—are desired *for* something.

Approaching liberty and security as instrumental, instead of only as absolute goods, is not new. Rather, in today’s discussion of these issues the approach has been somewhat abandoned. Thus I propose we return to this

⁴⁶ For example, “[l]iberty . . . for Rousseau, is not something which can be adjusted or compromised: you are not allowed to give away now a little of it, now much more of it; you are not allowed to barter so much freedom for so much security, so much freedom for so much happiness. To yield ‘a little’ of your liberty is like dying a little, dehumanizing yourself a little; and the belief which is most passionately held by Rousseau, one of the values to which he devoted more eloquence than to almost any other, is this notion of human integrity. . . . In short, human freedom—the capacity to choose ends independently—is for Rousseau an absolute value, and to say of a value that it is absolute is to say that one cannot compromise over it at all.” Berlin (2002), p. 33.

⁴⁷ Waldon (2006), p. 310.

⁴⁸ See, for example, Ullmann (1983); Charters (1994); Posner (2006); Posner (2007); Dershowitz (2002); Paterson (1877); and Ignatieff (2004).

approach of considering the instrumentality of liberty and security in order to better evaluate potential trade-offs in society. Both liberty and security are desired in general because they are instrumental to the human desire for the “good life.”⁴⁹ Considered as instrumental goods, then, both security and liberty derive their worth from the degree to which they do or do not conduce to the ends toward which their use is directed.

For example, liberty for J.S. Mill was significantly instrumental. Since he argued that happiness is humanity’s chief aim, he came to the conclusion that this happiness is best achieved in civil society where people are left free to pursue their own interests.⁵⁰ Thus liberty for Mill was instrumental to happiness. We need not limit ourselves to thinking that the instrumental value of liberty and security is hedonistic, however; rather we can think of these values belonging to a number of different conceptions of the good life. For example, a person’s conception of the good life could be directed by attachment to the values of Utilitarianism, Epicureanism, or even Stoicism.

One of the more recent considerations of liberty as an instrumental good is found in Rawls’s *A Theory of Justice* where he counts various liberties as among what he calls “primary goods”—“something that a person has instrumental reasons to want, no matter what else they want; something that promises results that are likely to appeal to them, no matter what they value and pursue.”⁵¹

Like Mill, Hobbes acknowledged security as instrumental to human happiness:

“By safety one should understand not mere survival in any condition, but a happy life so far as that is possible. For men willingly entered commonwealths which they had formed by design in order to be able to live as pleasantly as the human condition allows.”⁵²

“Regarding this life only, the good things citizens may enjoy can be put into four categories: 1) defense from external enemies; 2) preservation of internal peace; 3) acquisition of wealth, so far as this is consistent with public security; 4) full enjoyment of innocent liberty. Sovereigns can do no more for the citizens’ happiness than to enable them to enjoy the

⁴⁹ By the “good life” I mean the pursuit of one’s ends within reason.

⁵⁰ See Magid (1987).

⁵¹ Rawls (2001), p. 90. (I am unaware if Rawls ever considered security as an instrumental good, but we can think of the instrumentality of security in the same way as he considers the instrumentality of the other primary goods.)

⁵² Hobbes (1998), pp. 143–44. (*On the Citizen*, Ch. XIII).

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possessions their industry has won them, safe from foreign and civil war.”⁵³

Machiavelli, too, thought that both security and liberty had instrumental value. “The common benefit gained from a free community,” he wrote, “is recognized by nobody while he possesses it; namely, the power of enjoying freely his possessions without any anxiety, of feeling no fear for the honor of his women and children, of not being afraid for himself.”⁵⁴

Liberty and security may also be instrumental in the practice of each other. For instance, security can certainly be argued to be instrumental to effective liberty (as mentioned earlier). Likewise, liberty can be instrumental to security. For example, the values of political liberty which allow for openness in government can be instrumental in enhancing security for individual in society who, by having access to these political liberties, are protected from potential abuses (and potential breeches in personal safety and the security of property) by government.

Looking at the instrumentality of security and liberty does not make the dilemma of a potential trade-off any less serious, although it may help us to find compromises where previously the ‘partisan absolutists’ would have been unwilling to budge. For example, instead of asking, as is usually done, “how much liberty will be lost and how much security gained (or vice versa) by this new NSA measure?,” we should instead ask “will this new measure enhance people’s ability to self-direct their lives (provided that their wills do not infringe on the rights of others) in terms of the amount of freedom and security necessarily to reasonably pursue their ends?”

Considering liberty (or security) as an instrumental good could lead some to the conclusion that —thus as ‘one good among many’—to trade or sacrifice liberty/security is no different from sacrificing any other societal good, especially if we think that the good life can be achieved without liberty and security.⁵⁵ My argument, however, is not that liberty and security have no inherent value, simply rather that they, perhaps more importantly, do indeed have instrumental value.

So far as the debate is held today, both extremes place inherent value on security and liberty. If this is how we approach issues of terrorism, we may never come to a meaningful compromise and will instead, because of increasing fears, tend to err on the side of security. Thus my argument is in some sense a pragmatic

⁵³ Ibid., p. 144. (*On the Citizen*, Ch. XIII).

⁵⁴ Machiavelli (1965), p. 236.

⁵⁵ These objections are made by Doug den Uyl (2003) who argues that we should consider liberty only as an absolute good.

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one. The only way to solve dilemmas of a sacrifice of either liberty or security for the sake of the other is to approach issues by considering these goods as instrumental. Indeed, there is a purpose to our enjoyment of liberty and to our enjoyment of security, and we mustn't forget that both liberty and security are desired *for the sake of something*, lest we prize these as ideals and lose out on both.

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