

Chapter 1

Introduction



Freedom is indivisible, and when one man is enslaved, all are not free.

John F. Kennedy

A genuine liberal will emphasize as crucial the complete correlation between the means used and the consequences that follow.

John Dewey

1.1 Why Think About Freedom?

Freedom is a fascinating idea. It empowers and encourages all human beings towards a dignified life. More and more individuals and institutions appeal to the idea of freedom in order to overturn repressive life-circumstances. No one needs to explain the value of freedom to the oppressed. Wherever freedom is absent in practice, it is seldom lacking a cherished place in theory. The institutionalized consciousness of freedom, political liberalism, often grows in synch with the obstacles facing freedom.

But to identify and combat the lack of freedom is easier than shaping liberties already won. Wherever the harsh, black shadow of oppression is swept aside, the bright white light of freedom is refracted within the prism of the most multifarious ideas of liberty. The black and white of freedom fighters becomes replaced by the more nuanced ideological tinges of open societies. Within their colorful array of social and political blueprints, there resides both opportunities and dangers for liberalism. For within open societies, the once unquestioning urge for freedom now inexorably gives rise to the urgent question: Which freedom and whose freedom is to be upheld when the freedoms of some collide with the freedoms of others?

Freedom is constantly called upon to strengthen or to weaken certain conventions, to commend or to condemn individual, corporate, and collective practices, and to legitimize as well as to criticize political systems. Defenders just as much as detractors of the *status quo* alike, by invoking the selfsame ideal, are bringing to

light tensions within the idea of freedom. Does the freedom of the environmental campaigner have priority over economic freedom or vice versa? Does that of the champion of direct democracy have priority over that of the friends of parliamentary representation? Should religious liberty have priority over the freedoms of nonbelievers? Ought we to prioritize the freedom of those living today over that of coming generations? How are we to deal with the ecological damage and social side effects that unfettered economic freedom produces? How is economic freedom related to political freedom? Do they require and strengthen one another, or does the one in fact undermine the other? Might there be an excess of certain freedoms?

These questions stimulate vital deliberations: Do we adequately grasp the idea of freedom as such when equating it with a decrease of limitations and an increase in options? Or does freedom have immanent boundaries? Must even rules of fairness and commands of responsibility be considered as a diminution of freedom? Or do they rather articulate a desire for a freedom in and for sustainable ways of living? Are voluntarily chosen commitments negations or manifestations of freedom?

In short, as soon as freedom no longer fights with constraint and compulsion, liberalism begins to struggle with itself. Having eaten from the tree of knowledge and having learned the bitter lesson that the freedom of a few can ruin the presuppositions for the freedom of others – of everyone – liberal thinking lost its innocence. In its lack of social, moral, and ecological reflection today's liberalism is confronted by its own original sin and deplores the loss of its former paradise of moral clarity. The haste with which many liberals these days reach for moral fig leaves bespeaks their embarrassed state of original ethical nakedness. From now on, it seems, the friends of freedom must make their home in a world endangered by freedom itself. Henceforth liberalism must live by the sweat of its brow and earn its bread through a reform of its own idea and ideal of freedom. The present work endeavors to contribute to this reform.

Reading this volume will be easier if one is from the outset clear about where this intellectual journey is going. For this reason, I would like, right at the beginning, to confess that this book is intended for various target-groups and therefore argues at different levels. The aims and tone of the presentation change precisely for this reason. First, I wish to give a new direction to the academic discourse concerning the philosophy of freedom. The main part of this book, up until and including Chap. 4, is dedicated to this purpose. Second, I wish to provide momentum to a morally, socially, and ecologically sustainable liberalism, which is the focus of the last chapter of the book. Both aspects, however, are essentially connected. The applied part requires academic foundations for its legitimacy and, conversely, the theory requires practical application in order to establish its relevance.

Yet those people who are theoretically dedicated to the idea of freedom are not always the same as those who practically care about the vicissitudes of liberalism. As a consequence, I have attempted to compose this study in such a way that it does not require everyone to work with academic meticulousness. All of the theoretical chapters therefore end with a section emphasizing their respective "results and implications." Readers primarily interested in the practical consequences of my investigation will, by consulting these sections, be well prepared for their ultimate presentation in Chap. 5.

The academic aim of the book is easily enough stated, but not so quickly cashed out. First of all I wish to clarify the idea of freedom conceptually by readjusting the common distinction between *negative* and *positive* freedom into the dialectical conceptual dichotomy of *quantitative* and *qualitative* freedom (as is detailed in Sect. 1.2). I describe this dichotomy as *dialectical* since a closer consideration of both categories shows that, first, earlier theories of freedom are able to be conclusively traced back to those two categorical determinations whereby, second, a hierarchical ordering and prioritizing of quantitative and qualitative aspects arise so that, third, it becomes clear how the one uniform idea of freedom can be legitimately differentiated – from place to place as well as from one time to another – within different ways of living freely.

The perspective of quantity and quality chosen here is not entirely new.¹ Mainly we find the quantitative preoccupation championed in theories of “negatively-liberal,” libertarian or neo-liberal origin.² Conversely, the conception of qualitative freedom has some similarities with the concept of “positive freedom” (about which there is more in Sect. 1.2.3), although it is to be clearly distinguished from it as a result of its important *procedural* dimension. Qualitative freedom does not wish to stipulate *ex cathedra* which freedoms should apply to certain people and certain groups, but rather authorizes those respectively affected to come to an agreement themselves about that stipulation – in forms which could be justified in the name and interest of the freedom of all mankind. This aspect – the irreversible globality of the idea of freedom – is something which I shall expound on presently (in Sect. 1.1.1).

¹Karl Mannheim (1893–1947), Erich Fromm (1890–1980), and Theodor Adorno (1903–1969) talk of qualitative aspects of freedom, but not in a technical sense. In these thinkers, the concept of ‘qualitative freedom’ surfaces only occasionally but is not systematically worked out. Certainly, even as early as 1979, Charles Taylor introduced “qualitative discriminations” within the philosophy of freedom, but he did not extend these ideas into a self-contained theory, see Charles Taylor, “What’s Wrong with Negative Liberty?” in Alan Ryan & Isaiah Berlin, *The Idea of Freedom: Essays in Honour of Isaiah Berlin* (Oxford & New York: Oxford University Press, 1979), 177–193. It should also be noted that, unlike what might be supposed by judging the book by its cover, Matthew Kramer in no way arrives at a theory of qualitative freedom, but rather attempts to trace back all qualitative dimensions of the idea of freedom to quantitative aspects (“the perimeter of a person’s latitude,” “the extent,” “the numerical expressions,” etc.) and then trace these back to a theory of negative freedom (“the sheer physical proportions”) (Matthew H. Kramer, *The Quality of Freedom* [New York: Oxford University Press, 2003], 7–11). Yet in *theoretical* philosophy (looking for an alternative to debates about determinism versus indeterminism) the concept of qualitative freedom has already been tried out in Thomas Buchheim, *Unser Verlangen nach Freiheit kein Traum sondern Drama mit Zukunft* (Hamburg: Meiner, 2006). In regard to the practical philosophy in the foreground of this investigation and in systematic opposition to conceptions of quantitative freedom, the conception of qualitative freedom has up to now, as far as I am aware, not yet been worked out. I myself have, however, already sketched my own position in some essays, above all in: Claus Dierksmeier, “Qualitative oder quantitative Freiheit,” *Rechtsphilosophische Hefte* 12 (2007), 107–119; as well as in Claus Dierksmeier, “Welche Freiheit?,” *Liberal, Vierteljahreshefte für Politik und Kultur* 4 (2010), 9–13; and in Claus Dierksmeier and Michael Pirson, “The Modern Corporation and the Idea of Freedom,” *Philosophy in Management*, 9:3, 2010, 5–25.

²For a definition and critique of “negative freedom” see Sect. 1.2. For the use of “neoliberal” see note 119.

The sociological, economic, and political aims of this study are connected in their intention of realigning liberalism: from a theory often only insufficiently reflecting upon its moral, social, and ecological responsibility to a conception which makes the idea of freedom's immanent cosmopolitan obligation the center of its argumentative elaboration. I discuss this motivation in more detail in the following two sections of this chapter.

1.1.1 Freedom and Globality

Our little blue planet is home to all humankind – and is also increasingly perceived as such. Yesterday's *surroundings* (*Umwelt*) are increasingly turning into today's *lifeworlds* (*Mitwelt*), which noticeably impacts upon all local activities. Our actions here and now influence the living conditions of distant peoples and future generations. In addition to tribal leaders and local communities, regional subcultures and nation states, communes and clans, sheikdoms and states, fanatics and fundamentalists, ever more novel actors appear upon the world stage: Colossi of business and luminaries of science, media and militia, donors and sponsors, refugees and rockstars, hackers and whistleblowers, social networks as well as civil society movements all enter in the action and flux of the world. No longer restricted to the local level, the strands of activity so initiated mesh into a fabric ever more difficult to penetrate. The mutable stasis of formerly stable powers yields increasingly to the immutable dynamics of fluctuating forces. Thus the global exchange of commodities, information and people changes the face of the earth with breath-taking speed.

Humanity communicates, travels, and trades more freely today than ever before. One has ever easier access to news, commodities, and contacts. Global information, encounters, and incitements, which, still in the late nineteenth century, were the prerogative of a few learned travelers like Alexander von Humboldt, are now a matter of course to a constantly increasing number of world citizens. Speeded up by exponentially increasing exchange of information, innovative conventions rapidly take root. In the blink of an eye, lifestyles and idols from the most obscure corners of the planet or internet populate our global consciousness. The broadening of the views and insights as well as the increasing exchange of world-views (*Weltbilder*) and self-images (*Selbstbilder*) have encouraged and empowered many to liberate themselves from obsolete ways of life, to try other paths, and to begin something new: both within their communities and also by turning their backs upon them. – It is evident that this enhances the freedom of many, although, obviously, not all people.

This gain in options has a price. That the new communication media levels physical distances is one person's blessing and another's curse: Little remains private, practically nothing is local anymore; and where the citizens of this world are not controlling their information, their informational self-determination becomes a con-

stantly endangered good. Likewise, economic freedom in a global economy, unrestrained by global governance contains enormous opportunities, but also serious risks: If left unprotected against the ice-cold wind of global profit seeking, many biological systems vanish, customs disappear, political orders fall, and languages die out.

Although there has always existed a cross-cultural exchange of commodities and information, our age differs dramatically from previous epochs. We live in a world no longer only of *globalization*, but rather of *globality*. In a world that in many respects is already cosmopolitan, since we increasingly devise private activities, local business dealings, and national politics with reference to their worldwide reception. Like it or loathe it, our interests are bound up with the interests of other persons and states. The domestic affairs of distant countries have long since developed into matters of national security. And the crises of the *global commons* (the over-fishing of the seas, the warming of the climate, the consumption of fossil fuels, etc.) are transforming yesterday's national foreign policy into today's global domestic politics (*Weltinnenpolitik*).³ History has made us all cosmopolitans.

Whether by means of global epidemics or as a result of the epilepsies of the world market – we cannot but acknowledge that our actions produce remote effects as unforeseeable as they are unintended. Although *single* processes of globalization can still be slowed, stopped, and even reversed, this does not hold for the *general* trend. The breadth and depth globalization has already assumed compels us already to think in terms of the category of globality: A calculation on the planetary scale, the assessment of a long chain of consequences, an anticipation of world-wide developments. Therefore, whether we slow or stop any future impetus towards globalization, the fundamental change of paradigm remains: *away* from locally bounded economic and political bookkeeping and *towards* the perspective of globality.

Wherever the later significance of our activities surpasses our earlier intentions, we must face the following: Whatever we now bequeath the planet might be fully deciphered only in the future, but the responsibility for our message to coming generations already rests with us presently. This situation – the globality and intertemporality of the consequences of our actions – changes radically how freedom is experienced, perceived, and conceived. The extension of its responsibility towards the planetary as well as the future dimension forces itself upon the contemporary consciousness as an imperative of sustainability. Since freedom has an effect beyond the culturally familiar boundaries of space and time, it also must itself be evaluated beyond them. Whoever acts globally must act with cosmopolitan responsibility.

³ See Peter Dudy, *Menschenrechte zwischen Universalität und Partikularität: Eine Interdisziplinäre Studie zur Idee der Weltinnenpolitik* (Münster: Lit, 2002); Scott Jasper, ed., *Securing Freedom in the Global Commons* (Stanford, California, 2010); and Kirstin-Maike Müller, *Konzepte einer Weltinnenpolitik* (Hamburg: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg, 1999).

Global crises and problems force humanity to search for common solutions. The implementation of these solutions, however, often demands global institutions, and those institutions usually only work efficiently when founded upon common values. Yet, the more the current search for global moral criteria increases, the more suspicion many sense in regard to the values so summoned. Some shun every universalism and fear it might produce a global world order with uniform procedures crushing all cherished diversity. For reasons of cultural sensibility and moral empathy, should we not rather prefer the regional over the universal imperative? Should we not therefore support a cultural relativism of values and norms?

Certainly, an enforced world-monoculture that with uniform procedures did violence to all diversity is undesirable. In the age of globality, however, a relativistic stance, according to which each and everyone sees only their own norms as valid, is just as inappropriate. Wherever human beings interact, there is the threat of conflicts which require arbitration. Only at the utmost risk to our surroundings (*Umwelt*) and lifeworld (*Mitwelt*) can we live out our freedom without coordination. Only at the cost of the deepest mistrust on all sides can freedom dismiss all bounds and refuse every universal stricture. Where everyone is at once party and judge there is a threat of eternal strife. Each increase in the possibility of conflict enhances the yearning for the reality of arbitration.

In lockstep with the effects of private as well as collective politico-economic activity, the law must thus gradually develop beyond the bounds of national legal systems. And since every judiciary requires a legislative body and this, in turn, requires an executive, economic globalization creates the demand for a politically lawful globalization.⁴ Yet, at the same time, laws and courts on their own cannot put things right. As the sword of the law often proves too short and at other times too coarse a weapon, juridical coercion (*Zwang*) must be supported by moral impulse (*Drang*). Actions reflect attitudes – and thus up to now no legal-system has survived, which was not also morally legitimated, complemented, and differentiated. Law and morals, although distinct, can only be successful when they are working together.

We thus have to consider what mediates between the particular and the universal, between families and state, between morality and law. The intermediary level of civil-society must be investigated in its own moral forms, differing from context to context. Whether freedom be granted in societies, organized in companies, channeled by networks, charged within movements, whether it manifests itself in trends, rites, or customs, in each such case and scenario, it comes with a certain, specific responsibility: an ethical dimension, which while closely corresponding with morality and right, does not culminate within them. Only when this intermediary level of ethicality (*Sittlichkeit*) is likewise included, can *fair* and *sustainable* structures for mankind's economic networking and political striving be *established* (*aufzubauen*) and – catering differently to different contexts and cultures – *extended* (*auszubauen*).

⁴See Joseph E. Stiglitz, *Making Globalization Work* (New York: W. W. Norton & Co., 2006).

Freedom must be balanced and differentiated by responsibility in three differing ways: On the micro-level of individual morality, on the meso-level of social conventions and norms, as well as on the macro-level of general law. All three levels – those of the individual, those of the associations, as well as those of governments – point towards the cosmopolitan framework they operate in. What affects all must also be effected by and in the interests of all. More than ever before, our thinking today therefore requires a moral compass for cosmopolitan questions, which adjusts and aligns morality, ethicality (*Sittlichkeit*), and law, notwithstanding their necessary functional differences. Our joint world requires a unifying ethos (*Ethos*).

While it was hitherto the hallmark of moral *idealists* to call for a use of freedom according to universalizable maxims, as if we were accountable to “the entire world,” now even self-declared *realists* recognize as the bellwether of the present that our *enlightened self-interest* increasingly overlaps with the precepts of *moral cosmopolitanism*. In amazement, the hardcore empiricist notices how an *idealistic ethic* (*Ethik*) proves itself to be a *realistic methodology*. In politics and economics, as well as in ecology and culture, it turns out time and time again that freedom endures only when used with cosmopolitan responsibility. Ethics features increasingly as a strategy of sustainability.

Then again, one person’s god is another person’s idol; truth over here equals heresy over there. The more intense the cultural exchange and the pace of social change become, the more sharply we confront the problem that regional customs, religious traditions, and the conventions of the past no longer enjoy ubiquitous and unquestioned authority. Every thrust of globalization narrows the scope of traditional ethics. And, with every increase in plurality, our life suffers the loss of long familiar bonds. To prevent the growing difference of individual norms resulting in an increasing indifference to all values, we urgently need to determine to *which* ethical standards we are to hold fast to in the future.

Universalist philosophers have forever attempted to outline precisely such goals and principles with authority for all of humankind. However, these attempts often suffered from two problems; from *principle* objections against their theoretical validity and from *pragmatic* doubts about their practical efficacy. On principle it was asked: Why, actually, should rules drawn up within one place or time also be valid in another? Pragmatically it was objected: How could values neatly drafted on the drawing board of pure thinking at all be adequate to the multi-colored fabric of our multi-faceted life?

Whoever wants to respond to the *fact* of our *global existence* and with a *world-wide ethical pact* must answer both objections. Can we find principles with the power to resolve – not only familiar – but also completely unprecedented problems? In order to motivate, as well as to legitimate global action we require an ethic that unlocks the past for the present, instead of one which, in its glance towards yesterday, obstructs the path towards the future. At the same time, the factual divergence of norms found upon this planet is neither to be crushed nor concealed. We thus

require an ethic in harmony with the different cultures and traditions of this world. The era of unilateral nationalism is over in politics just as much as in moral philosophy. The world needs universalism *and* difference; that is the cosmopolitan mandate, to which current theories in globalization ethics have to correspond.⁵

This book argues that, in this age of late modernity, such an ethic is best sought in the results of a qualitatively oriented idea of *freedom*. That may seem surprising: For does not every human being have a different view of freedom? Is not freedom therefore an idea that divides rather than unites? Is there really (only) *one* idea of freedom, which could be just as global and as differentiated as the very problems it aims to solve? Moreover we should consider: Why make freedom so central? Why burden the (too narrow?) shoulders of liberalism with the extensive topic of globalization? Do not Western attitudes thus become the measure of all things, with political predilections influencing our choice of principle, and occidental values from the outset suppressing the polyphony of the cosmopolitan symphony? I do not think so.

Within the ranks of all values proclaimed around the globe, freedom deserves a special place. Certainly, there are cultures which, according to their *explicit* self-understanding, are not based upon the idea of freedom. Yet everyone *implicitly* claims freedom *qua* self-determination, even and especially when the liberty to lead one's life as one sees fit is denied. Even individuals and groups ascribing to completely *illiberal* modes of life place importance upon doing so *autonomously*. Any commitment to values, not least fanatical ones, becomes absurd when enforced. De facto therefore even fundamentalists lay claim to freedom: *as* and *for* self-determination. Consequently, they have no convincing reason to deny others theoretically the very same autonomy they themselves make use of practically. Since this individual freedom cannot be consistently denied, it must consequently be granted to others: All the liberal thinkers reconstructed within this book agree about that. For to recognize what one claims for oneself, and to approve what there is no good reason to militate against, is but the very nature of reason. In this indirectly self-justifying structure, the idea of freedom is unique, and thus recommends itself for the clarification of cross-cultural moral questions of value.

While the idea of freedom is invoked worldwide, people understand it extremely differently from one place to the next. No universal form seems to correspond to its global employment. Not everyone understands the same thing by freedom – quite the contrary. The genesis and validity of the idea of freedom appear severed; in places where freedom reigns in the kingdom of ideas, it does not necessarily manifest itself also in practice. Due to this variety of the understanding of freedom (both proclaimed and lived) and in the face of rising challenges and controversies produced by globalization, it is high time for a reassessment of the idea of freedom.

⁵See Anthony Appiah Kwame, *Cosmopolitanism: Ethics in a World of Strangers* (London: Penguin, 2007); Claus Dierksmeier, *Humanistic Ethics in the Age of Globality* (Basingstoke: Palgrave Macmillan, 2011).

Not incidentally, the discourse about the essence and value of freedom takes place globally.⁶ Some propagate an “Eastern” understanding of freedom (inner, spiritual freedom from dependencies and material desires) against a flatly hedonistic “Western” liberalism.⁷ Others locate the decisive rupture among conceptions of freedom, not so much between East and West, but rather between a conservative Northern and a progressive Southern ideal of freedom.⁸ For example, within writings dealing with the philosophy of liberation, it is common to contrast the emancipatory ideas of freedom of the *Global South* against the North’s conceptions of freedom, which are often perceived as conservative.⁹ Does one therefore have to think about the planet as divided into different hemispheres of freedom, with the Northwest in the role of the insensitive egoist? Hardly. The struggle for the idea of freedom is not only a fight between states and regions, but also one well within those cultural spheres.¹⁰

Even within the northwestern zone, stylized by such geographical schemes as the universal malefactor, one nevertheless finds extreme differences of opinion concerning how freedom is actually constituted. Angloamerican bestselling authors like Jeremy Rifkin and George Lakoff are good examples. Rifkin describes and supports, for instance, a tension between European (i.e. attractive and sustainable) and American (i.e. unattractive and ruthless) views about freedom.¹¹ The emphatic dis-

⁶For details see Rolf Steltemeier, *Liberalismus: Ideengeschichtliches Erbe und politische Realität einer Denkrichtung* (Baden-Baden, 2015).

⁷See Joseph Mitsuo Kitagawa, *Spiritual Liberation and Human Freedom in Contemporary Asia* (New York: Peter Lang, 1990).

⁸See José Luis Rebellato, *La Encrucijada De La Ética: Neoliberalismo, Conflicto Norte-Sur, Liberación* (Montevideo: Multiversidad Franciscana de América Latina: Nordan Comunidad, 1995).

⁹See the contributions in Mabel Moraña, Enrique D. Dussel & Carlos A. Jáuregui, eds., *Coloniality at Large: Latin America and the Postcolonial Debate* (Durham: Duke University Press, 2008) as well as in Carlos A. Jáuregui & Mabel Moraña, *Colonialidad Y Crítica En América Latina: Bases Para Un Debate* (Puebla, Mexico: Universidad de las Américas Puebla, 2007); Kamilamba Kande Mutsaku, *Desarrollo y Liberación: Utopías Posibles Para Africa y América* (México, D.F. Tec de Monterrey, Campus Estado de México: Porrúa, 2003) and Robert Taylor, ed., *The Idea of Freedom in Asia and Africa* (Stanford: Stanford University Press, 2002).

¹⁰See Oded Balaban and Anan Erev, *The Bounds of Freedom: About the Eastern and Western Approaches to Freedom* (New York: P. Lang, 1995).

¹¹Within this discourse there is a rather schematic attitude that “Americans hold a negative definition of what it means to be free and, thus, secure. For us, freedom has long been with autonomy. If one is autonomous, he or she is not dependent on others or vulnerable to circumstances outside of his or her control. To be autonomous, one needs to be propertied. The more wealth one amasses, the more independent one is in the world. One is free by becoming self-reliant and an island unto oneself. With wealth comes exclusivity, and with exclusivity comes security. [...] For Europeans, freedom is not found in autonomy but in embeddedness. To be free is to have access to a myriad of interdependent relationships with others. The more communities one has access to, the more options and choices one has for living a full and meaningful life. With relationships comes inclusivity, and with inclusivity comes security” (J. Rifkin, *The European Dream: How Europe’s Vision of the Future is Quietly Eclipsing the American Dream* [New York: Polity, 2004], 13). See also: Mark Leohard, *Why Europe Will Run the 21st Century* (London & New York: Fourth Estate, 2005).

inction between a rather compassionately-relational theory of freedom and a harshly-absolute one is, however, also found within the USA itself. Lakoff, for example, derives precisely this distinction from a conflict between the ideals of freedom of the Democrats and Republicans.¹²

Such schemata are extremely limited in terms of their cognitive value; they fail to do justice to the phenomena in question by disguising overly the internal diversity of opinions within the described camps. It would, however, also be mistaken to believe that one gets closer to the truth by further differentiating through ever subtler subdivisions, for example, by distinguishing within the USA between the Republicanism of the coastal states and that of the inland states, and then again by differentiating between the urban, suburban, and provincial strata of the population, or by distinguishing along the lines of religious communities,¹³ or breaking things down historically (along, e.g. the conflict lines of the American civil war).¹⁴ This all seems as pointless as it is laborious.

Supporters of different concepts of freedom exist in every culture, after all.¹⁵ There is no region upon the earth so homogenous that each and all of its proponents of liberal view-points would neatly agree upon one single conception of freedom.¹⁶ So, the fact that, in spite of their obvious unsuitableness, attempts at geographical clustering continue to put in an appearance, indicates, above all, an unsatisfied need for orientation in matters concerning freedom. Just as horoscopes react – though miserably ineptly – to a genuine striving for meaning within the human heart, those cultural-morphological derivations correspond to a similar type of need for clarity about the idea of freedom. My work aims to respond to this very yearning for order and orientation.

1.1.2 *Freedom and Everyday Life*

Our everyday life is shot through with the implications of our ideas about freedom. The prevalent conceptions of freedom diverge not only theoretically, but also lead to tangible practical differences. Intellectual indifference concerning questions of freedom thus translates, willingly or unwillingly, into an affirmation of predominant types of freedom. Whoever remains undecided still decides – namely for the

¹² See George Lakoff, *Whose Freedom? The Battle over America's Most Important Idea* (New York: Farrar, Straus and Giroux, 2006).

¹³ See John G. Sperling & Suzanne Helburn, *The Great Divide: Retro Vs. Metro America* (Sausalito: PoliPoint Press, 2004).

¹⁴ See Eric Foner, ed., *Voices of Freedom: A Documentary History* (New York: W. W. Norton & Co., 2011).

¹⁵ See Svetlana Boym, *Another Freedom: The Alternative History of an Idea* (Chicago: University of Chicago Press, 2010).

¹⁶ See Amartya Sen, *Identity and Violence: The Illusion of Destiny* (New York: W. W. Norton & Co., 2006).

established set of freedoms. Whoever withdraws from the discussion about freedom through poses of neutrality in no way displays impartial equanimity, but rather takes a partisan stand for the *status quo*. Abstention supports the currently dominant ideas of freedom, and is just as worthy of criticism or in need of justification as the standpoints that it strengthens.

If, for example, some (politicians, for instance) reduce freedom to but a choice amongst given parties or others (economists, say) to merely a choice between extant options of consumption, liberal philosophy must come to the fore. It has to question the structures which admit precisely these and no other possibilities. Why reduce freedom to the very options granted by market and power? Why relate freedom only to choices within the system, and not also to the choice of the system itself? Why, moreover, limit freedom only to acts of choice and not also think about creating new options and changing others so as to create novel opportunities?

Which notions of freedom are we employing here respectively? Does, for instance, economic freedom at times constrain the freedom to enjoy unpolluted nature, the freedom for cultural self-creation, and non-conformist personal development? And where then are our priorities? *Which* freedom and *whose* freedom should have precedence? A simple declaration of loyalty to the abstract idea of freedom does clearly not suffice but must translate into serious efforts at its conceptual concretization. That is to say, the discourse concerning freedom has much more than merely an academic significance and hence cannot be confined to the ivory tower of academic debates. In the realm of freedom, the battle of ideas interconnects with the war between systems; and the critique of power showcases the power of critique.

The battle over freedom illustrates that and how ideas can change the world. Hardly ever is the practical effect of philosophy so evident as in the patent distinctions within the organization of culture, politics, and business, which start from diverging conceptions of freedom (like, for example, in North and South America) or which are championed by different liberal parties such as, for example, by the liberally conservative VVD and the progressively liberal D66 in Holland.¹⁷ Thinking about our personal and political liberties cannot, therefore, be left only to professional thinkers. It is the calling of any and all citizens. The philosophical profession can enrich, stimulate, and broaden these reflections, however it cannot replace the civic discourse.

That is why in what follows I do not simply put forward a ready-made conception of philosophical liberalism. Rather I develop my position step by step by means of the *reconstruction* of important theories of freedom, first, through the approaches of Kant, Fichte, and Krause, as variations of liberalism in the eighteenth and nineteenth centuries, and then through the theories of Rawls and Hayek as well as Galbraith and Sen as representatives of the debates about freedom in the twentieth century and the present. As a result, readers are not simply spoon-fed the conception (of quantitative and qualitative freedom) introduced in this book. It rather gradually

¹⁷ See Rudy Andeweg and Gale Irwin, *Politics and Governance in the Netherlands* (London & New York, 2009).

emerges in front of their eyes as the result of following in the footsteps of some of the most important modern philosophies of freedom.

I am of the opinion that the idea of qualitative freedom here presented articulates well the contemporary consciousness of the problems of citizens with liberal leanings. For some liberals these days feel more at home in the conservative camp because they prefer freedom to be expressed in terms of responsibility rather than license. Other friends of freedom move to the left because they recognize that freedom needs preconditions that the market is often unable to provide. Others question political liberalism for ecological reasons because it seems to ride roughshod over nature's needs. Thus, the cause of freedom is more and more surrendered to those who aspire to a freedom, not moving *towards*, but rather moving away *from* responsibility and ethical commitment. Political liberalism is thus threatened with moral hypothermia. Whoever fights for freedom just for his own interests or for the sake of material goods (namely financial goods) surely betrays the liberal flag as soon as these interests are able to be more adequately materialized elsewhere. Such friends, however, hurt liberalism more than any foes.

Critical voices from inside our open societies and extreme voices from outside both claim that without rigorous normative goals the acid bath of capitalist culture will disintegrate the liberal ideal into a multitude of hedonistic idols: Freedom would thus evaporate into the liberty to consume.¹⁸ Why however – those who do not consider themselves as belonging to the liberal camp will ask – should traditional values and morals be sacrificed in the name of such an idol at all? Why, for example, be unfaithful to God in order to serve Mammon? Why cut solidarity in order to make space for selfishness? Why push back decent and just modes of life for a vision of freedom orientated at a ruthless maximization of profits or a voracious hunt for amusements?¹⁹ Why speak only of business freedom and not also of freedom from business?²⁰ Why equate liberalism with capitalism?²¹

Why is there this tendency towards a moral depletion of liberalism? What drives the flight from values and the peculiarly materialist economic narrowness in liberal thinking? It seems to me that in the course of the last 250 years many of the liberal avant-garde have taken a disastrously wrong path. Their theories have distanced and alienated themselves from foundations which – if only they had been consistently spelled out – could have connected liberal philosophy with those very dimensions of ecological, social, and cultural sensibility and sustainability for the lack of which liberalism stands now everywhere accused.²²

¹⁸ See Zygmunt Bauman, *Freedom* (Milton Keynes: Open University Press, 1988), 92–97.

¹⁹ See Crawford Brough Macpherson, *Democratic Theory: Essays in Retrieval* (Oxford: Clarendon Press, 1973), 91.

²⁰ See Lisa Maria Herzog, *Freiheit gehört nicht nur den Reichen: Plädoyer für einen Zeitgemässen Liberalismus* (München, 2014).

²¹ See Karl Hermann Flach, *Noch eine Chance für die Liberalen; oder, die Zukunft der Freiheit: Eine Streitschrift* (Frankfurt am Main: S. Fischer), 17.

²² See Pankaj Mishra, *From the Ruins of Empire the Revolt against the West and the Remaking of Asia* (London: Allen Lane, 2012).

That is to say, something rings true in these criticisms of liberal thought. Yet I am no pessimist. Up until now every *crisis* of liberalism has proven to be a *chance* for the revitalization of the idea of freedom.²³ Self-complacency, much rather than criticism, is a threat to liberalism. Where liberalism does not confront the critical demands of the present, the cozy milieu of liberal parties becomes suffocated by the uncanny fug of partisan liberals. In narcissistically embracing itself, liberalism condemns itself to autoerotic infertility and thus eventually to extinction. Fecundity, on the other hand, results from interaction with one's other. Only they who seek out the other will find themselves. Only they who feel at home with alterity can house themselves. This is especially true of the intellectual eros of freedom. The idea of freedom must hence be more interested in its challengers than its sycophants.

The task, pursued throughout the whole of this book, of working towards a theory of freedom doing justice to the globality and interculturality of our lives, results from these theoretical and practical aims. In a world in which the course of events rips apart once obligatory rules, the eternal and intercultural principles of philosophers prove especially apt for establishing new reference points.²⁴ From time immemorial, philosophy has made a noble virtue out of the necessity of thinking unaided by unquestioned certainties and unquestionable authorities.²⁵ Where the implicit validity of morals and traditions cannot (any longer) be counted upon, the capacity to explicitly trace and competently criticize the presuppositions of legitimacy already inherent within social speech and action pays off. Thus does practice require philosophy.

Of course, theories alone cannot repair the world; but insofar as they show us new possibilities, they do herald the way to alternative realities.²⁶ In view of the pressing global problems and the shockingly uninspired way in which the political world responds to them, the intellectual renewal of the idea of freedom and the search for a viable liberalism do indeed not seem to be idle undertakings. The very globality that challenges our contemporary notions of freedom thereby also provides us with a touchstone. At all times, human freedom has been conceptualized according to a framework which gave it meaning (*Sinn*), i.e. both significance and direction. Today this is especially necessary again. As, however, the ethical guidelines of orientation

²³ See Friedrich Naumann, *Gegenwart und Zukunft des Liberalismus: Mit einer Federzeichnung nach einem Porträt Friedr. Naumanns von Schneider-Franken* (München: Buchhandlung Nationalverein, 1911).

²⁴ See Henry S. Richardson & Paul Weithman, ed., *Development and Main Outlines in Rawl's Theory of Justice* (New York: Garland, 1999) and Henry S. Richardson & Paul Weithman, ed., *The Two Principles and their Justification* (New York: Garland, 1999).

²⁵ See Michel Foucault, *Von der Freundschaft als Lebensweise: Michel Foucault im Gespräch* (Berlin: Merve, 1984).

²⁶ As Martha Nussbaum says, "theories are only one influence on people's lives, but they *are* one influence (Martha Craven Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* [Cambridge MA: Harvard University Press, 2006], 223). She also tells us that "the answers to large philosophical questions have practical significance. They shape our sense of what is possible" (ibid. 415).

of culture and religion are often formed and conditioned by the contexts to which they owe their generation, in our globalized world, merely local and regional standards will not suffice, and the question about unconditional, context-independent guidelines can no longer be postponed. Freedom must be related to values that can exert a unifying force over all borders and across every plurality. The idea of freedom thus leads to the project of a global ethos.

1.1.3 *Freedom and Academic Philosophy*

In the historical hit parade of philosophy, the idea of freedom is a golden oldie; and – especially because of the turbulent history of the previous century – in the past decades, debates concerning political and economic freedoms have been very animated. In most countries, analytic philosophy dominated the academic scene, and this holds true up to now in the Anglo-American world. In light of that it may well seem surprising that this investigation begins with a chapter about the *metaphysics* of freedom. Many analytic philosophers, after all, are hugely skeptical about metaphysics. And since some of them are downright hostile to it, and denigrate in particular the theories of *German Idealism*, which we will be dealing with extensively later on, as “philosophically defunct”,²⁷ our point of departure is in need of a brief defense.

At the beginning of the twentieth century, analytic philosophy was shaped by positivist thinkers, then, towards the middle of that century, by linguistically oriented schools, and finally, at the end of the century, by naturalist schools. Its most outstanding champions accordingly attempted to reduce time-honored philosophical problems and questions (such as, for example, about the essence of freedom) first to logical problems, then to linguistic problems and finally to problems of natural science.²⁸

Popular within all analytic camps is the assumption that scientifically serious philosophizing only truly began with Gottlob Frege (1848–1925), so that the work of previous thinkers can at best be considered a quarry for contemporary intellectual constructions. Now, this opinion must of course not necessarily be uncritically accepted (*angenommen*), it certainly should be apprehended (*ernst genommen*) since it still continues to shape the attitude of many professional philosophers who are wont to banish all metaphysical systems of thought to the mythical infancy of actual philosophy (characterized by formal logic and the analysis of language). Exalted metaphysical reasoning must – in their eyes – be cut back to the boundaries of sober understanding. Scientific philosophizing has to *either* maintain itself only

²⁷Brian Leiter, *The Future for Philosophy* (Oxford: Oxford University Press, 2004), 23.

²⁸See Christopher Gewert, *Wittgenstein on Thought, Language and Philosophy: From Theory to Therapy* (Aldershot: Ashgate, 2000) and James F. Peterman, *Philosophy as Therapy: A Interpretation and Defence of Wittgenstein's Later Philosophical Project* (Albany: SUNY Press, 1992).

within the ambit of the empirically observable and logically compelling²⁹ or at least obediently subordinate itself to the predominate use of language and ideas.³⁰ These demands have their downsides however.

These postulates have much more serious implications for the critique of society than their modest and scientifically sober sound lets on. Whoever produces political ideas like that of freedom only from measurable facts or the common use of language slows down their social dynamic of development. Why? Because theories solely orientated at the given empirical or linguistic inventory shift the critique of what is given, i.e. at the *status quo*, into the private sphere. Only a philosophy committed to a normative tension of its concepts in respect to reality can center on the *objective truth* of critique.³¹ Positivism however – in its epistemological as well as its linguistic variant – knows only of *subjective opinions*. These either prevail in society and/or in the use of language, or they do not. Until they do, though, they are, positivistically speaking, virtually unreal and therefore as irrelevant as a strictly private language. Consequently a philosophical critique of ideas and society would be assigned roughly the same status as personal complaints about the weather. That theoretical exile of critique to the private sphere also promotes its banishment from public practices insofar as it incapacitates academic scholarship to promote counterfactual ideals. Defused theories cannot lead to social explosions. Philosophy thus degenerates into affording anodyne indulgences to the established order.³²

The permanently resonant assumption of, for example, the champions of the *Vienna Circle*, that philosophical controversy concerning ideas and principles is ultimately avoidable and could be therapized away by more exact terminological distinctions has in the meantime had its day.³³ Today, even in the Anglo-American

²⁹See Otto Neurath & Rainer Hegselmann, *Wissenschaftliche Weltauffassung, Sozialismus und Logischer Empiricismus* (Frankfurt am Main: Suhrkamp, 1979), Moritz Schlick, *Allgemeine Erkenntnislehre* (Berlin: Springer, 1918).

³⁰Representative of that is: Ludwig Wittgenstein, *Philosophical Investigations* (Oxford: Blackwell, 1953).

³¹See Martha Craven Nussbaum, "Human Functioning and Social Justice in Defense of Aristotelian Essentialism," *Political Theory* 20:2 (1992), 202–246.

³²Herbert Marcuse's critique put forward at the beginning of the 1960s, which states that linguistic philosophising too easily gives up its counterfactual potency is, *mutatis mutandis*, still valid. See Chapter 6 in Herbert Marcuse, *Der Eindimensionale Mensch: Studien zur Ideologie der Fortgeschrittenen Industriegesellschaft* (Neuwied & Berlin: Luchterhand, 1967).

³³Ludwig Wittgenstein decisively contributed to this change of attitude (and thus to the fading of positivism even in analytic philosophy). Earlier on within his program of a logical purification formulated in his *Tractatus* he certainly made a sustained contribution to logical positivism (see Ludwig Wittgenstein & Bertrand Russell, *Tractatus Logico-Philosophicus* [London: Kegan Paul, 1922]). He later deviated from this program, however, because he could only explain the logical inconsistency of language through the philosophical analysis of everyday language, including the evaluations and intuitions it comprises (see Ludwig Wittgenstein, *Philosophical Investigations* [Oxford: Blackwell, 1953]). For a detailed discussion see Wolfgang Kienzler, *Wittgensteins Wende zu seiner Spätphilosophie 1930–1932: Eine historische und systematische Darstellung* [Frankfurt am Main: Suhrkamp, 1997]). The fundamental assumption of Wittgenstein's earlier philosophy that "the correct method of philosophy [...] actually [would be] this: To say nothing other than what is able to be said, i.e. propositions of natural science" (TLP 6.53), eventually changed. The

world where analytic approaches have dominated the academic scene up to now, it is no longer believed that the “future for philosophy” lies in purely conceptual endeavors.³⁴ – Ever fewer adhere to the view that the conflict about the idea of freedom could simply be resolved by linguistic distinctions.³⁵ Although the philosophical investigation of language is still regarded as a very important *means* of philosophical cognition, it is no longer seen as the *end* of philosophical work. In its place, richer arguments have again moved into the center of philosophical thinking.³⁶ An anthology about the philosophy of freedom designed for the Anglo-American market thus bluntly declares, for example, that:

Thirty to forty years ago, some philosophers believed that the controversies between negative-liberty theorists and positive-liberty theorists could be cleared up through a search for linguistic errors. Very few contemporary philosophers believe as much. Neither side in the negative/positive controversies is guilty of linguistic impropriety [...]. Virtually everybody now recognizes that the relevant considerations for one’s choice between negative-liberty doctrines and positive-liberty doctrines are moral and political values and theoretical-explanatory values (such as clarity, precision, and parsimony).³⁷

This new spirit helps to bridge the gap, which for a long time had been said to be irreconcilable, between analytic and other traditions of philosophy. The decline of the analytic school’s claim to be its sole representative opens up space within academic philosophy for other methods, like the dialectical, hermeneutical, phenomenological, and deconstructive thinking defended in the approaches of Continental European, Latin-American, Asian, or African philosophy. In these traditions, there always predominated the procedure, now also acclaimed among analytic philosophers, of making the method fit the facts and not vice versa.³⁸ Never before were the chances of a methodological “crossover” in the discipline therefore so favorable.

resultant position is that the deeper problems of our lives are neither condemned to silence (TLP 6.52–57), nor said to begin only when and where all questions concerning the philosophy of language are already answered, but rather must be grasped as the inevitable product of everyday language when we win the “struggle against the bewitchment of our understanding by language’s ways” (PU 109). This occurs as soon as we grasp how our language speaks for itself as a form of living (see PU 120–126). The philosophy of language in the spirit of the late Wittgenstein is therefore less the project of rejecting metaphysical questions as meaningless, but more the attempt to understand – through the probing exploration of meaningful speech – how the urgent problems of life arise as a result of the ‘inexpressible’ within language. Hence the late Wittgenstein too recognizes that the ultimate questions of metaphysics cannot be avoided – which is not to say that they can necessarily be answered. For more details see Friedrich Glauner, *Sprache und Weltbezug: Adorno, Heidegger, Wittgenstein* (Freiburg: Alber, 309).

³⁴ See Leiter, *The Future for Philosophy*.

³⁵ See J. Norman, “Taking “Free Action” Too Seriously,” *Ethics* 101:3 (1991), 505–520.

³⁶ See Judith N. Shklar and Bernard Yack, eds., *Liberalism without Illusions: Essays on Liberal Theory and the Political Vision of Judith Shklar* (Chicago: University of Chicago Press, 1996).

³⁷ See Ian Carter, Matthew Kramer & Hillel Steiner, *Freedom: A Philosophical Anthology* (Malden: Blackwell, 2007).

³⁸ See Bruce Wilshire, *Fashionable Nihilism: A Critique of Analytic Philosophy* (Albany: SUNY Press, 2002).

Presently philosophers of all schools actively occupy themselves with mutual cooperation, in the common service of the joint cause.³⁹

The theory of freedom profits from this situation. As a result of the methodological relaxation in the philosophical discourse, it is finally possible to also let go of petrified positions. There are numerous unjustified prejudices to be eliminated, such as that the idea of “positive freedom” is primarily championed by continental philosophers, while concepts of “negative freedom” are instead at home within the analytic camp (see Sect. 1.2); or that normative conceptions of freedom are typically harbored by the political left, while descriptive conceptions are said to tend to the political right – and more of this ilk.

My suggested application of the concepts of *quantitative* and *qualitative* freedom hopes to make the debate more flexible again, and proposes two revisions:

First, the debate about freedom should be clarified. Many of the usual labels – negative versus positive freedom, formal versus material freedom, procedural versus substantial freedom, idealistic versus materialistic conceptions of freedom, libertarian versus communitarian freedom, etc. – do less justice to the issue at hand than the more precise and appropriate disjunction between the quantity and quality of freedom. I hope to show that this very differentiation has implicitly been in play in the background of many theories of freedom, and that a lot is achieved by explicitly bringing it to the foreground. Communicating in accurately defined concepts can assist us in verifying whether we also think in clear categories.

Second, one has to shift from thinking of the predicates of freedom in terms of *binary* oppositions towards conceptualizing them *dialectically* (see Sect. 1.3.3). Instead of using attributes which strive in completely opposed directions and reciprocally cancel out their logical powers, more appropriate labels should be found for the idea of freedom, which are able to relate to one another productively and thus augment their respective forces. By means of the labels of *quantitative* and *qualitative* freedom, still unencumbered by political connotations, I hope that a more integrative idea of freedom can be achieved than before, namely a conception which can constructively resolve the tensions between freedom and responsibility as well as freedom and sustainability.

1.2 Why Not Negative Versus Positive Freedom?

In some writings on political and economic theory, in much popular philosophy, and in almost all party-political writings, the language of negative and positive freedom is still very much in use.⁴⁰ It characterizes concepts of freedom according to whether

³⁹ See the interesting studies which Jack Reynolds has assembled about the current rapprochement between analytic and continental philosophy in Jack Reynolds, ed., *Postanalytic and Metacontinental: Crossing Philosophical Divides* (London: Continuum, 2010).

⁴⁰ See for example: Detmar Doerring, *Traktat Über Freiheit* (München: Olzog, 2009) and Wolfgang Kersting, *Verteidigung des Liberalismus* (Hamburg: Murmann, 2009).

they merely define themselves *negatively* – via the absence of coercion – or whether they also say something *positively* about freedom, with respect to its preconditions and aims. This kind of terminology has long since fallen out of favor within academic philosophy – and for good reason (for more about this, see Sect. 1.2.3). Yet it was only very recently that the corresponding insights also appeared within more popular publications.⁴¹ Before we proceed to elaborate the alternative favored here, i.e. the distinction between *quantitative* and *qualitative* freedom, we must hence briefly explain – first historically, then systematically – why we bypass the traditional distinction of *negative* versus *positive* freedom.

1.2.1 *The History of the Distinction*

A reference to their genealogy can illustrate how the concepts of negative and positive freedom in no way achieve what they intend. Isaiah Berlin (1909–1997) is often cited as the spiritual father of this distinction.⁴² But he merely popularized expressions he had found in the British Idealists, Thomas Hill Green (1836–1882) and Francis Herbert Bradley (1846–1924). They, in turn, were influenced by the work of Georg Wilhelm Friedrich Hegel (1770–1831), who had developed the distinction between (a) negative and formal freedom and (b) concrete and substantial freedom, in his engagement with the philosophy of Johann Gottlieb Fichte (1762–1814). So, this deceptively simple distinction carries a lot of historical baggage, and it may be surmised that precisely this excessive burden unduly hinders and trammels our thinking about freedom.

What was taking place when these concepts were first introduced? Hegel accused Fichte’s conception of human existence of possessing too little regard for the objective conditions of life and a too great regard to the purely ‘subjective spirit.’ He charged Fichte with establishing the essence of humanity (“I”) through the exclusion of all contexts (which Fichte summarized coldly as “not-I”). But, according to Hegel, whoever seeks freedom principally in the *negation* of the world and environment it shares, transforms freedom itself into a “fury of destruction.” In its lack of positive commitments, *negative* freedom ends up merely centered on itself; *theoretically* this leads to formalistic emptiness and *practically* towards absurd ways of living – to a “fanaticism of destruction” of traditional orders.⁴³ In what follows we

⁴¹ For example, Udo di Fabio correctly stresses that the distinction between “negative” and “positive” does not achieve “the analytic level which is today both possible and necessary” (Udo di Fabio, *Die Kultur der Freiheit* (München: Beck, 2005), 81.

⁴² As well as the classic “Two Concepts of Liberty” see especially “From Hope and Fear Set Free” and “Political Ideas in the 20th Century” in Isaiah Berlin, Henry Hardy and Ian Harris, *Liberty: Incorporating Four Essays on Liberty* (Oxford: Oxford University Press, 2002).

⁴³ Georg Wilhelm Friedrich Hegel, *Hegels Werke in 20 Bänden* [Hereafter TWA] (Frankfurt and Main: Suhrkamp, 1969), 7, 50. Translated in *Hegel’s Philosophy of Right* (London, Oxford & New York, 1967), 22.

will examine whether this criticism is warranted, especially in regard to Fichte's social philosophy (see Sect. 2.2.1) as well as in regard to the concept of freedom in general (see Chap. 3).

Later on, there arose a similar discussion in England, which was of formative importance for the current understanding of the concept of negative and positive freedom as well as stylistically instructive for current vulgar liberalism. There and then, the distinction became loaded with political significance. Under the leadership of Jeremy Bentham (1748–1832), James Mill (1773–1836) and David Ricardo (1772–1823), English social philosophy had granted priority to the concept of *utility* before the principle of freedom. The British utilitarians assigned freedom a functional value, as opposed to an absolute one. They appreciated the license it granted to individuals to act in the manner that proves most utilitarian. Utility equals that which brings pleasure and avoids pain. Therefore, instead of reasoning about the proper quality of freedom, the utilitarians aimed at quantifying utility in the correct way. Utility had a materialistic odor and as such seemed more measurable than *freedom* or *liberty* which were suspected of undue idealistic tendencies.⁴⁴ Liberalism smelled of vague philosophy, utilitarianism tasted of rigorous science.

The utilitarian surveying of freedom occurred as follows: Since total license would lead to chaos and thus to collective loss of benefits, a view toward aggregate social utility provides the best gauge for maximizing the average amount of individual options. Herein the legislative apparatus proves helpful, which summarily coordinates the separate interests of people and prioritizes preferences according to the majority principle. There were of course concerns that a tyranny of the lowest common denominator could arise and prove hostile to freedom. Yet, without much further ado, James Mill, the father of John Stuart Mill and a founding father of British utilitarianism, eliminated such concerns by means of a rhetorical device: "The community cannot have an interest opposite to its interest. To affirm this would be a contradiction in terms. The community within itself, and with respect to itself, can have no sinister interest."⁴⁵ A newfangled version of the old wisdom: Blessed is he who believes.

Herbert Spencer (1820–1908) already saw that this did not bode well for freedom. Hence he aimed to balance the principles of *utility* and *liberty* through the formation of a "liberal utilitarianism."⁴⁶ In the evaluation of liberties, *direct* considerations of utility are to be pushed back in favor of the *indirect* pursuit of utility within liberal forms of living. Spencer assumed that the common good is best

⁴⁴In this work, following the prevailing use of the English language, both concepts are treated as synonyms; it is for this reason also useful to refer to a study *pars pro toto* which pursues their etymological and political differences: David Hackett Fischer, *Liberty and Freedom* (OUP USA, 2004).

⁴⁵James Mill, "Government" in Edwin A. Burt, *The English Philosophers: From Bacon to Mill* (New York: The Modern Library, 1939), 861.

⁴⁶See D. Weinstein, *Equal Freedom and Utility: Herbert Spencer's Liberal Utilitarianism* (Cambridge: Cambridge University Press, 1998).

enlarged when the individuals who contribute to society are given ample space to unfold their talents and pursue their interests. Utility and freedom could be reconciled, if only the high *utility of freedom* – e.g. for the development of productive innovations – were adequately recognized, and for this reason personal liberties would be protected by law.⁴⁷ As before, *utility* thus remains the ultimate criterion from which freedom is assessed and estimated,⁴⁸ although the legislator is no longer supposed to pursue benefits to society directly, but rather indirectly, with the help of liberal procedures.

A similar attempt to reconcile liberality and utility was undertaken by John Stuart Mill (1806–1873).⁴⁹ In his *Principles of Political Economics* he too interconnects *liberty* and *utility*. However, after first assessing the value of actions in their utility, and then in their contribution to human happiness, he appears ultimately undecided about what really comprises the latter. Mill's concept of happiness includes demands for human rights, calls for women's rights, and concerns about cultivated civility⁵⁰ to such an extent as to discourage certain countervailing ideas of happiness: The coarser and more chauvinistic the people, the less their utility calculi find appreciation and consideration within Mill's work. For John Stuart Mill could certainly not agree with Bentham's proposition that, in respect to the promotion of happiness, the children's game "pushpin" is just as good as "poetry,"⁵¹ and he instead declared that "it is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are of a different opinion, it is because they only know their own side of the question. The other party to the comparison knows both sides."⁵² – A quite important insight in respect of the tendency of some modern economists to equate freedom simply with the fulfilment of preferences.

After having reduced all ethical criteria to but one (*utility*), John Stuart Mill diligently attempted to rescue the principles of freedom and justice from his own radicalism – i.e. from their utilitarian challenge. Thus, however, the question emerges,

⁴⁷This position receives renewed support within the work of current utilitarians: *mutatis mutandis* in the differentiation between *utility* as decision-making criteria and decision-making procedure, see for example: James Griffin, "The Distinction between Criterion and Decision Procedure: A Reply to Madison Powers," *Utilitas* 6:2 (1994), 177–82.

⁴⁸See David Lyons, "Utility and Rights" in J. Roland Pennock & John W. Chapman, *Ethics, Economics and the Law* (New York: New York University Press, 1982).

⁴⁹See the following: Alan Ryan, *The Philosophy of John Stuart Mill* (Basingstoke: Macmillan, 1987); John Charvet, *A Critique of Freedom and Equality* (Cambridge: Cambridge University Press, 1981), 95; and John Gray, "Mill's and Other Liberalisms," *Critical Review* 2:2–3 (1988), 12–35.

⁵⁰See Nussbaum, *Frontiers of Justice*, 346.

⁵¹"Prejudice apart, the game of push-pin is of equal value with the arts and sciences of music and poetry." Jeremy Bentham, *The Rationale of Reward* (London: R. Heward, 1830).

⁵²John Stuart Mill, *Utilitarianism* (Longman, 1864). See also: *Dissertations and Discussions: Political, Philosophical and Historical: Reprinted Chiefly from the Edinburgh and Westminster Reviews* (London: J. W. Parker, 1856), 389.

which ultimately has priority in cases of conflict, the primary value (*utility*) or the secondary values (*liberty, justice*)?⁵³ At this point, a reversal of the direction of argument, entailing a radical self-justification of freedom, seems to be in the air, however it is not seized upon. At long last, the *utility* citizens gain from legal security constitutes the sole reason for all normative obligations, including those required in the name of protecting liberty. Mill's defense of freedom thus remains orientated *extrinsically* around the inefficiency of excessive or contingent restrictions of liberties, or, conversely, around the utility of their moderate and lawful provision. While the *intrinsic* value of freedom certainly shines through several passages of his work, Mill does not hold on to it. In short, Mill's accomplishment is to foreshadow a path for freedom as a self-justifying principle, but his failure lies in not having walked down that alley.⁵⁴

At any rate, this was how Thomas Hill Green (1836–1882) saw it. He thought the *utilitarian* founding of freedom allowed the promotion of a freedom “that can be enjoyed by one man or a set of men at the cost of freedom to others.”⁵⁵ In contrast, Green declared that freedom is *legitimized* as well as *limited* by the autonomy it facilitates. With the concept of “positive freedom” Green attempted then to give expression to the social-democratic notion that everyone has the right to conditions that make his or her freedom realizable. However, not *only* this notion.⁵⁶ – For Green, the concept of “positive freedom” had an internal as well as an external aspect. Green also adopted the following formula: “We do not mean merely freedom to do as we like irrespective of what it is that we like. [...] When we speak of freedom as something to be highly prized, we mean a positive power or capacity of doing or enjoying something worth doing or enjoying.”⁵⁷

The success of this formula proved fatal. The great popularity of this moral-philosophical dimension of Green's theory with the protagonists of speculative idealism belatedly appearing in England made the concept of “positive freedom” a welcome target for their opponents. They simply assumed that whoever differentiates between a good and a bad use of freedom also separates a true and a false self within a human being, and demands that the true and higher self subjugate the lower and the false self – if necessary with the help of collectives.⁵⁸

⁵³ See Chin Liew Ten, ed., *Mill's On Liberty: A Critical Guide* (Cambridge: Cambridge University Press, 2008). See also the discussion with Peter Ulrich, Dorothea Bauer and Michael S. Assländer, eds., *John Stuart Mill: Der Vergessene Politische Ökonom und Philosoph* (Bern: Haupt, 2006).

⁵⁴ John Rawls rates the beginnings of Mill's project more highly in John Rawls and Barbara Herman, *Lectures of the History of Moral Philosophy* (Cambridge: Cambridge University Press, 2000), 343, 366.

⁵⁵ Thomas Hill Green and Richard Lewis Nettleship, *Works of Thomas Hill Green* (London & New York: Longmans, Green & Co., 1889) III, 370.

⁵⁶ Avital Simhony, “On Forcing Individuals to be Free: T. H. Green's Liberal Theory of Positive Freedom,” *Political Studies*, 39:1 (1993), 303–320.

⁵⁷ T. H. Green, *ibid.*

⁵⁸ This suspicion persisted until the 1960s, such as within the works of Isaiah Berlin. See Melvin Richter, *The Politics of Conscience: T. H. Green and His Age* (Cambridge: Harvard University Press, 1964), 202.

Such metaphysics quickly leads to totalitarianism. One only needs to also declare that the law is only obligated to protect ‘true’ freedom and not ‘false’ liberties. Then already one can ascribe to that state the care for the virtuous life of its citizens, even through compulsory measures. So it may seem that this theory legitimates the abolition of actual liberties in the name of ethical freedom. The bourgeois liberties (*Abwehrfreiheiten*) thus run the risk of being drowned in the holy waters of morality. Although this interpretation was a crude, even ludicrous caricature of most of the British Idealists, it did not arise without reason. Fichte’s legal and economic philosophy, for example, follows this pattern at times (see Sect. 2.2.3); and Stalinists as well as Nazis knew cleverly to use similar arguments in order to disguise their totalitarian objectives as expressions of such allegedly “higher freedom.”⁵⁹

Ludwig von Mises (1881–1973), Friedrich August von Hayek (1889–1992), and Isaiah Berlin (1909–1997), who all found asylum within England and the USA in the 1930s, had had to watch from up close how in Germany and Russia the liberal heritage of the nineteenth century was thus redefined for the justification of illiberal collectivism. No wonder they wanted to help to bring renewed prestige to the bourgeois liberties, which, though guaranteed in the Anglo-American sphere, had meanwhile been discredited elsewhere as inimical to solidarity. Green’s concept of “positive freedom” fell victim to their concern. Without further ado, they declared it a gateway to that totalitarianism they had recently escaped only by a hair’s breadth and barricaded themselves behind the walls and ramparts of “negative freedom.”

Mises and Hayek above all rejected Green’s *social-democratic* orientation and defended the astonishing opinion that even the smallest step beyond the sphere of negative freedom would bring society irrevocably in the direction of compulsory socialism; a view to which, incidentally, Friedrich August von Hayek quite clearly did *not* hold when working out his social philosophy (see Sect. 3.1.4). Isaiah Berlin attacked from a different angle. While he expressly sympathized with Green’s social concerns (more about this later), he took issue with his *metaphysics*. He deemed Green’s concept of “positive freedom” to be based upon a “metaphysical doctrine of the two selves”; and Berlin feared that a dualistic fallacy allegedly contained therein, when politically applied, would leave the door wide open to illiberalism.⁶⁰

Both interpretations, however, the socialistic as well as the metaphysical, do not do justice to T. H. Green.⁶¹ Green had by no means adhered to a metaphysical conception of a divided self, but was rather expressly opposed to conceptions that proceed.

⁵⁹For more information about this see Stalin’s response to a statement of the British Foreign Minister in which he complained about the lack of freedom in Russia, which appeared in *Pravda* in 1951: <http://www.revolutionarydemocracy.org/rdv9n2/stalin.htm>. See also Hans Freyer, *Revolution von Rechts* (Jena: E. Diederichs, 1931).

⁶⁰For more information about this and the following, see Avital Simhony, “Beyond Negative and Positive Freedom: T. H. Green’s View of Freedom,” *Political Theory* 21:1 (1993), 28–54.

⁶¹Maria Dimova-Cookson, “A New Scheme of Positive and Negative Freedom: Reconstructing T. H. Green on Freedom,” *Political Theory* 31:4 (2003), 508–32.

as if there were really two characters in a man, empirical and intelligible, one determined by motives in which there is no freedom, the other determined by reason only in a way which excludes determination by motive and is free. In truth there is only one character.⁶²

Due to certain predispositions and experiences, every character is differently formed and develops independent ideas of the good – in the plural.⁶³ Every single human being follows a “varied nature of his view of the good”⁶⁴; society as a whole must therefore allow that the good be pursued “in many different forms.”⁶⁵ Therefore, it is not for the state to define how personal characters should be constituted and which ideas of the good they ought to aspire to. Rather Green understands “freedom in the positive sense” explicitly as “liberation of the powers of all men equally for contributions to the common good.”⁶⁶ In personally assuming that burden (*Bürde*) of assuming responsibility on one’s own terms consists the dignity (*Würde*) of freedom. The state cannot and must not interfere here. “All that one man can do to make another better is to remove obstacles and supply conditions favorable to the formation of good character.”⁶⁷

Whereas it is incumbent on the individuals freely to contribute to the common good, to society corresponds the obligation of making all individuals capable to take on this task. Consequently, the state should guarantee the material, health and pedagogical *conditions* required for reasonable autonomy.⁶⁸ In this vein Green declares “the ideal of true freedom is the maximum power for all members of human society to make the most of themselves”; an expression which strongly reminds us today of Amartya Sen’s concept of *capabilities* (see Sect. 4.2.2).⁶⁹ Positive freedom is thus afterwards employed by Green to denote capacitation for reasonable self-determination.⁷⁰

The “reciprocal claim of all upon all”⁷¹ to assist with the acquisition of these very capabilities is, however, says Green to be qualified *recursively*, i.e. so that this demand can be maintained “without detracting from the opportunities of others” and thus *not* at all by means of totalitarian methods.⁷² The state may remove indi-

⁶²T. H. Green, “Lectures on the Philosophy of Kant” in *Works of T. H. Green*, II, 93.

⁶³See Thomas Hill Green & A. C. Bradley, *Prolegomena to Ethics* (Oxford: Clarendon Press, 1899), 136.

⁶⁴*Ibid.*, 308.

⁶⁵*Ibid.*, 283.

⁶⁶Thomas Hill Green & Richard Lewis Nettleship, *Works of Thomas Hill Green*, III, 372.

⁶⁷Thomas Hill Green & A. C. Bradley, *Prolegomena to Ethics*, 308.

⁶⁸See Thomas Hill Green, *Lectures of the Principles of Political Obligation* (Longmans, Green & Co., 1941), 209.

⁶⁹This is why, for example, Amartya Sen also refers very affirmatively to Green’s concept of “positive freedom” (decidedly in contrast to Berlin’s interpretation of Green), see Sen, RF 586f. There is more about this in Chapter 2.3.1. note 151 as well as in Chapter 4.2.2.

⁷⁰Green & Nettleship, *Works of Thomas Hill Green*, III, 372.

⁷¹Green, *Prolegomena to Ethics*, 285.

⁷²See *ibid.*, 354.

vidual hindrances with the “realization of the capacity for beneficial exercise of rights” only insofar as it can do so “without defeating its own object by vitiating the spontaneous character of that capacity.”⁷³ That is, the idea of freedom provides not only the foundations (*Grund*) but also the limits (*Grenze*) of social policy. Freedom is the measure of solidarity, not *vice versa*. Positive freedom (at least Green’s version of it) is therefore far better than its reputation; and it is quite obviously not opposed to the fundamental rights defended by concepts of negative freedom.⁷⁴ The legitimate concerns of theories of positive freedom need to be preserved within the conception of freedom elaborated here.

1.2.2 *Current Use of the Concept of Freedom*

The schism between negative and positive freedom is unsatisfactory not only historically, but also systematically. The term *negative* freedom rather poorly describes the actual concerns of its supporters. They actually always want to protect something *positive*, namely, certain personal liberties.⁷⁵ Let us zoom in on that more closely: The standard definition of freedom as “absence of physically coercive interference or invasion of an individual’s person and property”⁷⁶ may be taken as typical of supporters of theories of negative freedom; and certainly it is representative of the positions of libertarians.⁷⁷ This immediately shows that the element of negation emerges only *secondarily*, namely, against attacks upon a *primarily* posited – and thus previously to be positively defined – sphere of freedom. Whoever refuses to allow every substantial characterization of freedom to enter through the front door, must nevertheless allow it in by the back door. Whoever says “you are ‘free’ when you can constrain other people from constraining you”⁷⁸ quite unconsciously defines negative freedom in terms of a positive good to be protected.⁷⁹

This thought, suggested already by Hegel (§§ 5, 17 *Elements of the Philosophy of Right*), was vividly illustrated by Francis Herbert Bradley (1846–1924):

⁷³ Green, *Lectures of the Principles of Political Obligation*, 210.

⁷⁴ See John Christman, “Liberalism and Individual Positive Freedom,” *Ethics* 101:2 (1991), 343–59.

⁷⁵ “The very idea of “negative liberty” [...] is an incoherent idea; all liberties are positive, meaning liberties *to do or to be* something; and all require the inhibition of interference by others” (Martha Craven Nussbaum, *Creating Capabilities: The Human Development Approach* [Cambridge, MA: Harvard University Press], 65).

⁷⁶ Murray Newton Rothbard, *The Ethics of Liberty* (Atlantic Highlands: Humanities Press, 1982), 215.

⁷⁷ See Johan & Paul Hospers, *Libertarianism: A Political Philosophy for Tomorrow* (Los Angeles: Nash, 1971) and Jan Narveson, *The Libertarian Idea* (Philadelphia: Temple University Press, 1988).

⁷⁸ Bruno Leoni, *Freedom and the Law* (Princeton: Van Nostrand, 1961), 56.

⁷⁹ See Friedrich A. von Hayek, *The Constitution of Liberty* (Chicago: Regnery, 1972).

[...] we all want freedom. Well then, what is freedom? 'It means not being made to do or be anything. "Free" means "free *from*". And are we to be quite free? 'Yes, if freedom is good, we can not have too much of it.' Then, if 'free' = 'free *from*', to be quite free is to be free from everything – free from other men, free from law, from morality, from thought, from sense, from – Is there anything we are not to be free from? To be free from everything is to be – nothing. Only nothing is quite free, and freedom is abstract nothingness. If in death we cease to be anything, then there first we are free, because there first we are – not.

Every one sees this is not the freedom we want. "Free" is "free from", but then *I* am to be free. It is absurd to think that I am to be free from myself. I am to be free to exist and to assert myself.' Well and good; but this is not what we began with. Freedom now means the self-assertion which is nothing *but* self-assertion. It is not merely negative – it is also positive, and negative only so far as, and because, it is positive.

[...] Reflection shows us that what we call freedom is both positive and negative. There are then two questions – *What* am I to be free to assert? *What* am I to be free from?⁸⁰

Bradley thus shows, on one hand, that negative freedom, in order not to be without content, must, first, affirmatively relate to something, e.g. to the modern individual bent upon self-determination.⁸¹ Second, it follows that negative and positive freedom are but two aspects of one and the same thing, namely a freedom determining itself by an inclusion and exclusion of its contents, a thought which at the time was also formulated by Bernard Bosanquet (1848–1923) and became generally very popular within British Idealism.⁸²

Negative freedom depends upon positive freedom, not only linguistically (*sprachlich*), but also objectively (*sachlich*); its internal focus rests in many ways upon external presuppositions. For the mere formation of an individual's life plan, for instance, which can occur under the protection of negative freedom, certain characteristic preconditions are required (consistent and stable decision-making, discipline in the implementation, etc.).⁸³ Its existence is partially dependent upon certain "positive" liberties (for instance, access to education and training). In the broader sense it also implies that one has at one's disposal further fundamental goods (food, health care, etc.); and it is only positive freedom – according to the familiar terminology – that grants everyone reliable access to these preconditions.⁸⁴

Furthermore, freedom must be able to relate to and reify itself within objects.⁸⁵ In order to (negatively) protect it within these concrete relations, certain institutions

⁸⁰ Francis Herbert Bradley, *Ethical Studies* (Oxford: Clarendon Press, 1927), 56f.

⁸¹ See Guido De Ruggiero, *The History of European Liberalism* (Boston: Beacon Press, 1959), 352.

⁸² "The higher sense of liberty, like the lower, involves freedom *from* some things as well as freedom *to* others" (Bernard Bosanquet, *The Philosophical Theory of the State* [Macmillan: London, 1899], 127). Bosanquet suggests that negative freedom emancipates us only from being enslaved by others, whereas positive freedom emancipates us from being enslaved by ourselves.

⁸³ See Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon, 1986), 408.

⁸⁴ See Stanley Isaac Benn, *A Theory of Freedom* (Cambridge: Cambridge University Press, 1998), 181 and Raz, *Morality*, 407.

⁸⁵ See Philippe van Parijs, *Real Freedom for All: What (If Anything) Can Justify Capitalism?* (Oxford: Clarendon Press, 1995), 22.

must (positively) be created. For instance, the protection of private property rests on the presupposition that things can be legally appropriated (in and through certain forms, such as by a law like the '*ius primae occupationis*') so as to make lawful ownership possible. But these legally protected rights can mostly only be legitimated and enforced if those disadvantaged by them also profit by the selfsame rules. Here, too, positive freedom (e.g. in form of the compensatory acts of distributive justice) is prior to negative freedom (e.g. in the protection of property in forms of transactional justice).⁸⁶ Thus we can say: Without positive freedom there is no justice; without justice there is no functioning society; without society there is no protection of individual's self-determination; thus without positive freedom there is no negative freedom.⁸⁷

Many contemporary philosophers of freedom are consequently no longer asking *whether* to add elements of positive freedom to theories of negative freedom, but only *which*? Many follow Gerald MacCallum, who reinvented the wheel first designed by Hegel and the British Idealists. He declared – now however from a foundation of conceptual analysis instead of a metaphysical one – that freedom never exists abstractly, but is always only socially mediated and constructed. In MacCallum's understanding, freedom is "always (freedom) *of* something (an agent or agents, *from* something, *to* (do, not do, become or not become) something, it is a triadic relation."⁸⁸ One should therefore situate (socio-democratic) demands for the societal preconditions of personal autonomy *within* the principle of freedom instead of (like Isaiah Berlin) locating it *outside* of it.⁸⁹ For MacCallum, the key question is hence not whether a certain hindrance to freedom would be *caused* by human action. "The only question is whether the difficulties can be *removed* by human arrangements."⁹⁰

The upshot is obviously not appreciated within libertarian circles – albeit for ideological rather than logical reasons. Yet, even libertarians have typically nothing against positive freedom, as long as it is understood strictly *morally*. The positive concretization of our freedom, by, for instance, moral commitments and virtues, does meet with their explicit consent. What they would like to avoid is merely social compulsion and governmental coercion. On *this* point, therefore, libertarians and friends of positive theories of freedom could actually amicably agree. An accord of harmonious consonance typically drowned out, though, by the many other dissonances between them.

⁸⁶ See Gerald Allan Cohen, *Self-Ownership, Freedom and Equality* (Cambridge: Cambridge University Press, 1995).

⁸⁷ See Onora O'Neill, "Autonomy, Coherence, and Independence" in David Milligan and William Watts Miller, *Liberalism, Citizenship, and Autonomy* (Aldershot: Avebury, 1992), 212–221.

⁸⁸ Gerald C. MacCallum, "Negative and Positive Freedom," *The Philosophical Review* 76:3 (1967), 314.

⁸⁹ See *ibid.*

⁹⁰ *Ibid.*, 325f.

Theories of positive freedom surpass the conceptual sphere of negative freedom in so many ways, in fact, that their central concern remains unclear to many libertarians (and also to some liberals). Doctrines of positive freedom usually offer several of the following supplements to negative freedom: (1) the will's commitment to rationality; (2) the will's focus on moral laws and ethical values; (3) the collective orientation towards cultural and historical contexts; (4) the establishment of participatory republican models of government; (5) the granting of certain pedagogical, cultural presuppositions of autonomous decision-making; as well as (6) the economic presuppositions of private autonomy. Whoever rejects some of these aspects does not have to refuse them all; conversely, whoever stands for some of these dimensions does not need to fight for them all.⁹¹ And that prevents a uniform stance. While the supporters of negative freedom mostly march separately but strike together, proponents of positive freedom fail to form a coherent front. Their camp is united only in being disunited. They struggle amongst themselves just as fiercely as they fight supporters of theories of negative freedom. More poignantly formulated: The concept of negative freedom is clear but sterile; the idea of positive freedom is fertile but unclear.

This is borne out especially by the works of Isaiah Berlin. After he had unwillingly become a neoliberal figurehead through his critique of Green's positive freedom, he ostentatiously espoused social-democratic preferences; and thus he ended up being chastised both by the camp of positive freedom *and* by that of negative freedom: from the first, because of his original (supposedly libertarian) positions, and from the second, for his subsequent (supposedly not at all libertarian) postures.⁹² His oscillation between politically incompatible poles on the basis of ambiguous conceptual-theoretical commitments serves as a lesson in the misguided polarization between negative and positive freedom and therefore deserves particular attention here.

Widely noted was Berlin's rejection of any *such* conception of positive freedom that would authorize a paternalistic state, in the name of ethical freedom, to carrying out all kinds of interventions into individual life plans. Yet while he centered this discussion on the opposition of negative and positive freedom, the case was not as clear-cut as Berlin pretended. One can neither subsume his political views (such as his harsh critique of *laissez-faire* politics and the social evils they cause) conclusively under the concept of negative freedom, nor can all plausible alternatives to such a view simply be lumped under the label of positive freedom.

Berlin reduced the concept of positive freedom to but the single one interpretation, which he rejected, of a doctrinal exegesis on the part of the state of what is to be understood by freedom. With that, however, he disguises that it would be as completely conceivable to support a concept of freedom, which is by no means

⁹¹ See Christman, "Liberalism and Individual Positive Freedom."

⁹² Along with the classic "Two Concepts of Liberty" see also "From Hope and Fear" and "Political Ideas in the 20th Century" in Isaiah Berlin, Henry Hardy and Ian Harris, *Liberty: Four Essays*.

reduced to the aspects of negation, but incorporates positive aspects in a liberal way, based on the citizens' negotiating for and with one another about how they wish to use their shared lifeworld for the benefit of the freedom of all. With Berlin's conceptual means, this alternative model cannot be clearly differentiated from a morally paternalistic government (*Tugendstaat*). One cannot avoid the impression that Berlin even pays homage to the model of a "night-watchman state" (*Nachtwächterstaat*), although – ironically quite against his intentions – he decidedly rejected such a minimal state and rather favored a socially dynamic model of politics. Berlin regretted this impression and the libertarian appropriation of his thinking it invited, and attacked both in later years fiercely.⁹³ In the following passage he retrospectively clarifies his position:

It is doubtless well to remember that belief in negative freedom is compatible with and (so far as ideas influence conduct) has played its part in, generating great and lasting social evils. [...] Advocacy of non-interference (like 'social' Darwinism) was, of course, used to support politically and socially destructive policies which armed the strong, the brutal, and the unscrupulous against the humane and the weak, the able and ruthless against the less gifted and the less fortunate. [...] The bloodstained story of economic individualism and unrestrained capitalist competition does not, I should have thought, today need stressing. Nevertheless, in view of the astonishing opinions which some of my critics have imputed to me, I should, perhaps have been wise to underline certain parts of my argument. I should have made even clearer that the evils of unrestricted *laissez-faire*, and of the social and legal systems that permitted and encouraged it, led to brutal violations of negative liberty – of basic human rights [...]. And I should perhaps have stressed (save that I thought this too obvious to need saying) the failure of such systems to provide the minimum conditions in which alone any degree of significant negative liberty can be exercised by individuals or groups, and without which it is of little or no value to those who may theoretically possess it. For what are rights without the power to implement them? I had supposed that enough had been said by almost every serious modern writer concerned with this subject about the fate of personal liberty during the reign of unfettered economic individualism – [...]. All this is notoriously true. Legal libertarians are compatible with the extremes of exploitation, brutality, and injustice. The case for intervention, by the state or other effective agencies, to secure conditions of both positive, and at least a minimum degree of negative, liberty for individuals, is overwhelmingly strong.⁹⁴

Unsurprisingly this slap in the face produced a libertarian furor, especially since in this context Berlin also explicitly lends support to positive freedom in the sense of political autonomy:

Positive liberty, conceived as the answer to the question, 'By whom am I to be governed?', is a valid universal goal. I do not know why I should have been held to doubt this, or, for that matter, the further proposition, that democratic self-government is a fundamental

⁹³This corrigendum produced bitter accusations from libertarians. Murray Rothbard especially criticized Berlin for his "assaults on *laissez-faire*" and let himself become carried away in the amusing accusation that, "Berlin goes on to attack such pure and consistent *laissez-faire* libertarians as Cobden and Spencer on behalf of such confused and inconsistent classical liberals as Mill and de Tocqueville" (Rothbard, *The Ethics of Liberty*, 216).

⁹⁴This and the following quotes are taken from Berlin, Hardy and Harris, *Liberty: Four Essays*, xliv–xlviii.

human need, something valuable in itself, whether or not it clashes with the claims of negative liberty or of any other goal.

Against the background of these self-explanations, or rather, self-relativizations, one must reflect on whether there continues to be any merit to the distinction between negative and positive freedom. It actually seems more to hinder than to help the notions it is supposed to express. In my view, talk of negative versus positive freedom suggests a fundamental distinction where there is none, i.e. where in truth contingent differences are at stake like modes of realization (voluntariness versus enforceability) or fields of application (internal determination of the will versus its external exercise). Thus, the focus upon positive versus negative aspects in the debate about freedom obscures our view of the actually relevant categorical differences. These, however, can rather be found in the interplay between a quantitative and qualitative orientation of freedom; an orientation that can be expressed both in negative and positive forms by rights concerning the defense of existing freedoms as well as counterfactual entitlements (*Abwehrrechte wie durch Anspruchsrechte*).

1.2.3 Some Outstanding Developments

Academic philosophy has distanced itself from the negative-positive schema for quite some time now, characterizing it as a false disjunction and attempting to transform the awkward duality by trinomial models, enriched by e.g. a *republican*,⁹⁵ a *solidaristic*⁹⁶ or a *psychological*⁹⁷ freedom⁹⁸; and some of the authors discussed in subsequent chapters also take this path. In my opinion the works of Amartya Sen are the most convincing attempts in this direction, as they distinguish between a *substantive freedom* and a *procedural freedom*, i.e. between communitarian and libertarian moments within the idea of freedom, in a persuasive attempt to synthesize them (see here Sect. 4.2.2).

Nonetheless, instead of repairing old machinery with new spare parts, I am suggesting replacing it with something new. What has already been said concerning theories typically at home in the camp of negative or positive freedom is also true of these trinomial concepts. They can be far less confusingly reconstructed by means of arguments that predominantly locate the significance of freedom either in its *quantitative* or its *qualitative* dimension. For their concern is typically a question either of the *number* or the respective *nature* of options. The above mentioned third

⁹⁵ See Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998).

⁹⁶ See Parijs, *Real Freedom for All*, 28.

⁹⁷ See Christian Bay, *The Structure of Freedom* (Stanford: Stanford University Press, 1970), 58.

⁹⁸ See Carter, Kramer & Steiner, *Freedom*; see also Virginia Hodgkinson, and Michael Foley, eds., *The Civil Society Reader* (Lebanon: Tufts University Press, 2009). In the German discourse this third aspect is mostly claimed to be “social freedom.” See Axel Honneth, *Das Recht der Freiheit – Grundriß einer demokratischen Sittlichkeit* (Frankfurt am Main, 2011).

aspects and perspectives can, in most cases, be integrated into one or the other perspective. Further, quantity and quality are sharp categories, not arbitrarily chosen labels. One may therefore expect that they, unlike other attributes, can also be brought into a clearly cognizable dialectical order so that their relationship turns out to be both more differentiated and less arbitrary than with the conventional dual or tripartite schemata.

From the outset we should note that the attributes of negative and quantitative, on the one hand, and positive and qualitative, on the other, do not fully correspond with one another. Especially in the sphere of positive freedom, the theory of qualitative freedom introduces an important differentiation. It differentiates between conceptions that analyze the *structurally-abstract* conception of qualitative freedom and others trying to establish its *concretely-material* design. This distinction is best expressed terminologically as one between the (structural) *idea* and the (particular) *concepts* of qualitative freedom, i.e. between a uniform guiding vision of freedom and its various forms of implementation. We will work out this distinction in more detail with the help of the philosophy of Kant (see Sect. 2.1.4) and Krause (see Sect. 2.3.4). It will serve us throughout the entire book as a compass.

The incapacity of numerous other theories of freedom to distinguish clearly between the level of the idea and that of the concept appears to me to be a fundamental problem within the current debate. It results in an inability to differentiate the postulate that one should *at all* be debating the quality of freedom from a plea for a *certain* form of qualitative freedom, which is partly to blame for the fear that various liberals and almost all libertarians have for any step beyond the narrow confines of negative freedom. Since a clear-cut distinction between the philosophical idea of freedom and its political application has hitherto been lacking, the defense of the substantive nature of freedom in general was time and again falsely identified with the championing of certain (e.g. social-liberal) positions in particular.

Libertarians, for instance, like to accuse the supporters of positive freedom of a “confusion” between freedom and its accompanying values. Bruno Leoni (1913–1967), for example, attributes a “semantic confusion” to all who infer possible limits for negative freedom from seeing the earth as the common property of mankind, i.e. all who believe that one owes more to the freedom of others than merely abstaining from infringing on it.⁹⁹ Friedrich August von Hayek seconded this accusation with the claim that all thinkers who wish to enrich freedom through social justice fall victim to another “confusion” between freedom, on the one hand, and other desirable things like welfare, wealth, or a socially active government, on the other.¹⁰⁰ Murray Rothbard (1926–1995) criticizes Isaiah Berlin for how his (revised) theory falls foul of the severe “confusion” that leads to the view that the community might owe substantial opportunities to the individual.¹⁰¹ Confused philosophers all

⁹⁹ See Leoni, *Freedom and the Law*, 54f.

¹⁰⁰ See Friedrich A. von Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), 16ff.

¹⁰¹ See Rothbard, *The Ethics of Liberty*, 216.

around; it only remains to ask: on which side of the controversy? For obviously what is at stake here is not a question of a Babylonian confusion of language, but rather a conflict of values underlying the differing usage of language.¹⁰² In the background of the diverging ways of speaking there are substantial questions like “which freedom” and “whose freedom”?

Abraham Lincoln already went straight to the heart of the matter a good 100 years before the debate about Berlin’s essay:

We all declare for liberty; but in using the same word we do not all mean the same thing. With some the word liberty may mean for each man to do as he pleases with himself, and the product of his labor; while with others the same word may mean for some men to do as they please with other men, and the product of other men’s labor. Here are two, not only different, but incompatible things, called by the same name – liberty. And it follows that each of the things is, by the respective parties, called by two different and incompatible names – liberty and tyranny.

The shepherd drives the wolf from the sheep’s throat, for which the sheep thanks the shepherd as a liberator, while the wolf denounces him for the same act as the destroyer of liberty, [...]. Plainly the sheep and the wolf are not agreed upon a definition of the word liberty; and precisely the same difference prevails today among us human creatures.¹⁰³

Whether one now reads this speech in its own historical context of the American civil war and the emancipation of slaves or with regard to current debates in globalization ethics about the economic enslavement of impoverished strata of populations, one thing remains the same: Supporters of positive freedom will constantly insist, along with Lincoln, that the question concerning the concept of freedom should not simply be decided by the “wolf’s dictionary” (ibid). The idea of freedom is therefore not contingently, but rather necessarily, controversial; normative aspects are included within its determination, not by mistake, but due to the need for value judgments.¹⁰⁴

Precisely because the *concept* of freedom most appropriate for the here and now is constantly being fought over, the structural *idea* of freedom has to be outlined in such a way that it can integrate such differences, e.g. by rendering its ultimate concretion, not through academic definitions, but through political procedures. Theories of positive freedom often lack, however, this dimension of *procedural* freedom, which is indispensable to all liberal practices, tending to concretize the idea of freedom *ex cathedra*. For this reason too there is no going back to the negative-positive dualism.

Once, however, one frees oneself from this staid manner of speaking, one will discover that the negative-positive distinction is much like a badly adjusted pair of glasses. As soon as one takes them off, optical illusions disappear. And there are many of them: Some authors loudly declare that they follow a purely negative concept of freedom and thereby starkly misrepresent their own theory (as, for example,

¹⁰² See Kramer, *The Quality of Freedom*, vii.

¹⁰³ Abraham Lincoln, *The Collected Works of Abraham Lincoln* (New Brunswick: Rutgers University Press, 1953) vol. 7.

¹⁰⁴ See Christine Swanton, *Freedom: A Coherence Theory* (Indianapolis: Hackett, 1992), 1–10.

Hayek, see Sect. 3.2). Others are charged to hold certain views that their concept of positive freedom does not at all contain (as demonstrated by the unjustified criticism of Green), or find their theories employed in a way which they themselves reject (like Isaiah Berlin). These and other obscurities in the depiction of freedom are due to the poor focus of the negative-positive lens.

Philosophy, insofar as it wants to promote consistent action through consequent thinking and coherent speaking, may not idly pass by the possibility of unravelling tangled debates. Conceptual distinctions are the more efficacious and useful the more fundamental and truer to the phenomena they are. The categories of quantity and quality thus recommend themselves. They immediately signal their elementary meaning and at the same time they allow recourse to a broad methodological arsenal from the natural sciences (for the modelling of quantitative relations) as well as on the part of the humanities (as custodians of qualitative points of view). While – formulating archetypically and with some exaggeration – the former delimit their object of investigation through selective definitions according to criteria that are as objective and value-free as possible, the latter attempt to break down the phenomena studied by them through recourse to subjective experience and ideals.¹⁰⁵

These methodological alliances and emphases in turn clarify the debate. It is by no means accidental that authors who follow the methodological ideal of natural science, above all neo-classically¹⁰⁶ orientated economists, mostly attempt the extrinsic *quantitative* modelling of spheres of freedom (e.g. through *game* theory and *rational choice* theories¹⁰⁷), while, conversely, authors in the humanities attempt to procure the idea of freedom with primarily *qualitative* methods. Both approaches bring different treasures to the surface. The question concerning which method should enjoy priority and how both ought to relate to one another must be decided

¹⁰⁵Of course the comparison formulated here only provides a very crude orientation. The actual situation is in no way as polarized into opposed cognitive paths as was at one time claimed (as by Charles Percy Snow in *Two Cultures* [London, 1959]). Yet even with a differentiated view (as, for example, with Stefan Hornbostel, “Schism oder Diversifikation: Das Verhältnis von Natur-, Sozial- und Geisteswissenschaften” in M. Dreyer, U. Schmidt & K. Dicke, eds., *Geistes- und Sozialwissenschaften an der Universität von Morgen* [Wiesbaden: Springer Fachmedien, 99–123]) the distinction remains between causally-explicating and contextually-reasoning methods (established by Dilthey and Gadamer) characteristic of the relationship between natural sciences and the humanities – and thus it also retains relevance for the mental and physical characteristics of freedom, which are difficult to understand without some kind of phenomenological assistance. Concerning this see also: Buchheim, *Unser Verlangen nach Freiheit kein Traum, sondern Drama mit Zukunft*.

¹⁰⁶Traditionally, we understand by *neoclassical* economic-theory the type produced by and after Alfred Marshall (1842–1924). The concept *neoclassical* – brought into circulation by Thorstein Veblen – refers to a fusing of the system of “classical” economics (Smith, Ricardo, etc.) with the subsequent works of Austrian marginalism (Menger et al.). For more about this concept see Jurg Niehans, *A History of Economic Theory: Classical Contributions, 1720–1980* (Baltimore & London: Johns Hopkins University Press, 1990), 159ff.

¹⁰⁷For further information about the role of *game theory* in the philosophy of freedom see Sect. 3.2.4 on Hayek; for further information about the function of *rational choice theories* see Sect. 4.2.1 on Sen.

by the phenomenon in question. In the course of our argumentation we have to grasp which categories capture most precisely the essence and reality of freedom and determine the methodological question accordingly.

1.3 How Should We Talk About Freedom?

Freedom is a necessarily contested idea.¹⁰⁸ Hence we cannot simply pick up some definition of freedom and run with it towards issues of practical application. Rather one has first to clarify the effect of different concepts of freedom upon everyday life – morally, socially, politically, legally, and economically. One can do this in many different ways. I consider it most meaningful to follow the historical development of the idea of freedom within previous centuries. The heated philosophical debates about the problems *with* freedom of the recent past clarify the very problem *of* freedom itself, namely, that the idea of freedom behaves like a *lens* and a *prism* at one and the same time. Depending on how one thinks about freedom, one either perceives different parts of the world (when freedom functions like a lens) or one sees the very same aspects in different colors (when freedom functions like a prism). Therefore, it is hardly surprising that intellectuals confronting freedom's role in society passionately talk at cross-purposes.

This linguistic confusion is in no way accidental. It rests on a disagreement about the mental frames and categories by which freedom is best grasped. Without tackling this *conceptual* ambiguity, we can hardly hope for *linguistic* clarity. Therefore, I aim first to sketch the complex contours of the issue in order then to take in hand gradually the categorical construction of the idea of freedom. Upon a conceptual canvas unfurled in front of the reader I hope to make visible layer after layer of those meanings that shape and color our current understanding of freedom. That is why I proceed in a historical-systematic fashion, transforming the selected theories of the philosophy of freedom into a dialectical trajectory culminating in the present. Thereby a continuous thread of questions raised by Kant and his successors connects up until their recent answers by contemporary philosophers. With every historical step our train of thought is systematically enriched in order to culminate finally with present questions and problems – for instance within the framework of *capability theory*.

¹⁰⁸ See B. Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society* 56 (1995), 167–198.

1.3.1 *Metaphysical Theories of Freedom*

In the first part of this book a great deal of space is devoted to the philosophy of Immanuel Kant (1724–1804) and his successors in order to consider their central idea that freedom is not negated but rather manifested by reasonable boundaries. That epochal insight was first formulated within the sphere of metaphysical systems. These metaphysics favored the formation and influenced the formulation of conceptions oriented at the critique of freedom by reason. Before one can set about morally interpreting or utilizing these conceptions of freedom in moral, political, legal, and economic philosophy, it is necessary to understand their innermost foundations.

But prior to that reconstruction of the metaphysical theories of freedom discussed here, I wish to say a few words in defense of this approach. In the meantime an ever growing number of analytically-schooled philosophers (like, e.g., Charles Taylor, Bert Dreyfus, Hans Sluga, Alva Noë, Sean Kelly, Mark Wrathall, Hans-John Glock and Gary Gutting, to name but a few) are certainly increasingly making use of texts from the speculative tradition and consider them to be instructive. Their influence, however, is hardly enough to enable us to proclaim cheerfully the hope that the gap between the two camps – previously declared to be forever insurmountable – is already bridged. Nor suffices the fact that in the camp of continental philosophy most have learnt to express themselves with analytic jargon and impressively dress up their texts with an Anglo-American apparatus of footnotes. No, whoever wishes to tempt colleagues from the analytic bank into an intellectual current unfamiliar to them first must show what is to be found on the river's other bank.

Yet far from imposing an onerous burden, the resulting pressure to present explicitly the relevance of speculative thought rather proves to be a blessing in disguise for philosophy. The analytic sandblast has the power to bring forth the true reliefs of metaphysical arguments, which otherwise would remain hidden under veneers of language and the superficial incrustations of a hagiographic and historicist patina. Philosophy benefits from having to explain nowadays why it, at times, opts for theorizing in opposition to apparent experience and the everyday use of language.¹⁰⁹ To its challenge, metaphysics owes a welcome concentration on the essential.

In this vein, followers of metaphysical understandings of philosophy point out, for example, the indispensability of *understanding* philosophical trains of thought within their historical and systematic constellations: Whenever the contextual anchoring of certain ideas impacts their content, also thinkers who simply aim at breaking out intellectual building-blocks are well-advised to scan cautiously the foundations of the objects they excavate.¹¹⁰ Hence analytic philosophers proceeding

¹⁰⁹ See Josef Piper, *Verteidigungsrede für die Philosophie* (München, 1966).

¹¹⁰ See Dieter Henrich, *Konstellationen: Probleme und Debatten am Ursprung der Idealistischen Philosophie (1789–1795)* (Stuttgart: Klett-Cotta, 1991).

with historical attentiveness (today no longer a species on the side-lines), too, demand a minimum of constellation-research as well as philological expertise.¹¹¹

Nevertheless, philosophers still differ about the more comprehensive question whether metaphysical foundations are not only hermeneutically relevant, but might also be substantially decisive in order to judge the *correctness* of certain philosophical positions. Here lies the actual point at issue; and since in what follows we give so much attention to the reconstruction of the idea of freedom during the history of *German Idealism* from Immanuel Kant (1724–1804) to Karl Christian Friedrich Krause (1781–1831) we do suppose that metaphysical thinking still has its legitimate place within today's philosophy. Yet such a claim can hardly be abstractly and universally proven, as if one could preliminarily clarify the function of metaphysics and then move on to more profane philosophical dealings. Instead metaphysical theory – just like any other theory – underlies the criteria of sound scholarship, for example, the requirements of argumentative stringency and parsimony as well as textual plausibility and intellectual fecundity.¹¹² Whoever in the battle of competing doctrines can produce consistent theories of roughly equal explanatory potential with fewer presuppositions will – as long as powerful paradigms do not stand in the way¹¹³ – win the day. The meaning and pertinence of metaphysical thinking is consequently best evaluated through concrete examples.

The claim that a certain theorem cannot be detached from its metaphysical context without losing content must be examined on a case by case basis; not only when this is put forward on the part of analytic philosophers as a knock-down argument,¹¹⁴ but also when continental philosophers bear that claim as a magical shield, in order to defend themselves against the formal challenges of propositional logic. In both cases the potential of the employed foundations decides whether the respective metaphysical groundwork strengthens or weakens the ideas in question. Of course, not all metaphysical foundations ultimately impact the factual level of practical philosophy. Their reconstruction is thus not always required. Some metaphysicians formulated ideas within their systems, which, outside of them, can just as easily convince.

But that is not true throughout. Whether for instance the function of freedom lies *either* in attributing value to an otherwise worthless world (as is claimed by epistemological libertarianism¹¹⁵) *or* in perceiving and realizing values inherent in the

¹¹¹ See Don Garret, "Philosophy and History in the History of Modern Philosophy," in Leiter, ed., *The Future for Philosophy* (Oxford & New York, 2004), 58.

¹¹² See Carter, Kramer & Steiner, *Freedom*, 5.

¹¹³ See Thomas S. Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1962).

¹¹⁴ See Hans Reichenbach & Maria Reichenbach, *Der Aufstieg der Wissenschaftlicheen Philosophie* (Berlin-Grünwald: Herbig), 13, 82ff.

¹¹⁵ Epistemic, voluntative, and political libertarianism are not necessarily identical. The first denies that intrinsic values can reside within the world and can be derived from it (libertarian theory of knowledge). The second holds natural determinism and free will to be incompatible (incompatibilism) and gives freedom precedence (libertarian theory of the will). Political libertarianism concentrates on the practically external freedom of human beings (libertarian theory of action) and would

world, this question is no idle speculation: The answer profoundly influences our everyday practice. In the first case, for example, there are no fundamental problems with an extensive exploitation of nature; in the second case the inherent value of nature places principled boundaries upon our use of the environment. The metaphysical foundations of the arguments dealt with here thus do evidently have huge practical significance.

Sometimes – e.g. with models which teleologically appropriate the historical present on behalf of a speculatively prescribed future (one thinks, for example, of the communist paradise promised by historical-dialectical materialism) – it appears unproblematic to dispose of the supporting metaphysical structures unceremoniously. Now and then, on the other hand, the appeal to the counterfactual critical potential of morally-metaphysical ideas may deserve a more measured approach. Is there, for example, within the power of our freedom to critically question and normatively surpass all extant options, a phenomenon which by and for itself requires metaphysical expression?¹¹⁶ Can freedom perhaps be adequately expressed only by an idea that necessarily points beyond any one of its implementations?¹¹⁷ These questions cannot yet be decided, but it can be said that the justification of metaphysical theories of freedom has to take place on a case by case basis – in constant critical adjustment with our intuition. The contribution of metaphysics to clarifying the idea of freedom has to be evaluated according to its theoretical power and practical fecundity and not from anti- or pro-metaphysical predisposition. The analytic flail can thus help to separate the metaphysical wheat from the speculative chaff.

Conversely, some sensitivity to metaphysical thinking can be of use within analytic approaches. For speculative convictions have imperceptibly found their way into the attempts even of those thinkers whose proud claim it was to philosophize completely free of metaphysics (as, e.g. Rawls, see Sect. 3.2.2). Often, certain fundamental assumptions concerning the conditions of our everyday life, as well as the scientifically correct way of exploring them, enter into the structure of their theories of politics and economics. Those ontological and epistemological assumptions, however, which are not infrequently introduced *ad hoc* or simply presupposed, can often be only supported by arguments of a metaphysical nature.¹¹⁸

like to see these limited as little as possible, as, for instance, is the case in R. Malcom Murray & Jan Narveson, eds., *Liberty, Games and Contracts: Jan Narveson and the Defence of Libertarianism* (Aldershot: Ashgate, 2007).

¹¹⁶See David Christopher Schindler, *The Perfection of Freedom: Schiller, Schelling and Hegel between the Ancients and the Moderns* (Eugene, Oregon: Cascade Books, 2012).

¹¹⁷See Herbert Marcuse, *Reason and Revolution: Hegel and the Rise of Social Theory* (London: Oxford University Press, 1941).

¹¹⁸John Gray, for instance, judges that “some useful variant of the idea of a real or rational will may survive the demise of the rationalist metaphysics [...] in which it has traditionally been embedded.” For some kind of “norm of human nature” is required by philosophical liberalism in order not to remain within empty abstractions. This “dependency of views of freedom on conceptions of man” is said to be honestly acknowledged by analytic philosophers (John Gray, *Liberalism: Essays in Political Philosophy* (London & New York: Routledge, 1989), 59f.).

Nevertheless, while metaphysicians find themselves in a reflexive relationship to their own *explicitly* speculative axioms and mostly self-critically justify them, this is not always true of theories of analytic provenance. These are often shaken at their foundations by the discovery of *implicit* metaphysical structures, especially insofar as the latter explicitly derive their claim to validity from their alleged distance to metaphysics. The analytic philosopher's complaint about metaphysics then proves to be a boomerang that hits home with all the more force. Whereas a short and direct path often leads from the metaphysics of freedom to a theory of freedom critically conscious of its own premises, many analytical-empirical theories reach that very destination by means of re-routing. For the former, the royal road of argumentative reconstruction stands open, for the latter only the winding paths of deconstruction. An insight succinctly formulated already by Francis Herbert Bradley who remarked that, "so long as you refuse to read metaphysics, so long will metaphysical abstractions prey upon you."¹¹⁹ *Nolens volens*, the analytical understanding is thus brought back to metaphysical reason.

1.3.2 *Quantitative Theories of Freedom*

While up until the middle of the nineteenth century Continental European philosophy anchored the idea of freedom metaphysically, the Anglo-American world has since the late eighteenth century turned towards empirically orientated ideas of freedom. Their aim was to adhere to what could be grasped through the senses alone and, as it were, to capture freedom physically. Not without reason. The long, bitter, religiously motivated, or at least theologically legitimated, civil wars had exhausted many. Everyone wanted to bring to an end that Christians were, in the name of their metaphysical convictions, injuring one another in life and limb. Many thinkers thus wanted to bring about clarity and precision concerning who could place limits upon whom, how, and for what reason. Thomas Hobbes (1588–1679) already explained freedom thoroughly in physicalist terms: "By LIBERTY, is understood, according to the proper signification of the word, the absence of external impediments."¹²⁰ Water, Hobbes explained, "kept in by banks, or vessels" is not (any longer) free; water, which follows its own current, on the other hand, (still) is. Freedom is accounted for, therefore, not with a view to its content and inner direction, but is purely defined externally, *via negationis*, through the absence of corporeal coercion and physical influence:

LIBERTY, or FREEDOM, signifieth (properly) the absence of opposition; (by opposition, I mean external impediments of motion;) and may be applied no less to irrational, and inanimate creatures, than to rational. For whatsoever is so tied, or environed, as it cannot move, but within a certain space, which space is determined by the opposition of some external body, we say it hath not liberty to go further. And so of all living creatures, whilst they are imprisoned, or restrained, with walls, or chains.¹²¹

¹¹⁹F. H. Bradley, *Ethical Studies* (London: Henry S. King & Co., 1876), 56.

¹²⁰Thomas Hobbes, *Leviathan* (Oxford, 1996), Chapter XIV.

¹²¹Ibid., Chapter XXI.

The inverse conclusion also follows. A man suffering mania or experiencing a drug-induced high, as long as he remains physically undisturbed, would have to be regarded as *free*. This interpretation is explicitly affirmed by Hobbes. He expressly does not want *liberty* to be understood as freedom of the mind (e.g. emancipation from such addiction), but rather as physical freedom – freedom to move. He therefore repeatedly defines “liberty in the proper sense” as “corporal liberty; that is to say, freedom from chains, and prison.” The *physical possibilities* of citizens “to choose their own abode, their own diet, their own trade of life” constitutes, in his eyes, the kernel of freedom. Accordingly, society’s laws are felt to be “artificial chains”¹²²; freedom can only exist *beyond* the latter in a sphere that is not (yet) ruled by law. The less one is restricted by such limits the freer one is. Thus understood, freedom means *freedom from* all limitations; it defines itself *negatively* by their absence. The fewer boundaries, the more freedom; the more freedom, the better; the result is a quantitative understanding of freedom.

The second part of the book investigates Rawls and Hayek, two representative supporters of quantitatively directed theories, which describe freedom in relation to its *outer* circumference and the *number* of enclosed options. Our explicit demand for freedom is thereby reinterpreted as the implicit wish to maximize the number of our choices. One thus wants to avoid recourse to the inwardness of freedom and sticks to the secure channel of mathematization in order to bring the ship of freedom safely into the harbor of the rule of law. Why risk engagement with subjective abysses and metaphysical maelstroms? Why abandon oneself to the winds of a speculative spirit and the constantly shifting currents of qualitative intuitions?

The characteristic model of this positivism of freedom (famous within the *Chicago School of Economics* and infamous outside of it) was provided by Jeremy Bentham (1748–1832): “You and your neighbor, suppose, are at variance: he has bound you hand and foot, or has fastened you to a tree: in this case you are certainly not at liberty as against him: on the contrary he has deprived you of your liberty.”¹²³ This form of arbitrary violence, according to Bentham, on average profits the criminal less than it costs the victim. That is why the legislator should interfere as a neutral trustee for the quantitative liberty of all. His regulatory power “cuts off on the one side or the other the portion of the subject’s liberty,” in order to maximize society’s aggregate amount of liberties.

Liberty then is of two or even more sorts, according to the number of quarters from whence coercion, which it is the absence of, may come: liberty as against the law, and liberty as against those ... *wrongdoers*. In the same proportion and the same cause by which the one is increased, the other is diminished.

Both options – to act according to the law or against it – are not subjected to any *substantial* examination. One simply has to balance, at which intersection of both curves, the individuals come away, on average, with the most freedom. According

¹²² *Ibid.*, Chapter XXI, 6.

¹²³ Jeremy Bentham, *Of Laws in General*, Herbert Lionel Adolphus Hart, ed. (London: Athlone Press, 1970), 253f.

to the maximizing-orientated logic of quantity certain boundaries are to be placed upon individual freedom. The argument follows the geometrical schema of countless bodies in bounded space: If each one moves simply as it pleases that will unavoidably lead to unpleasant collisions. One therefore must set rules of coordination reinforced by coercion that (by here and there curtailing a little the individuals' sphere of freedom) enlarge the total amount of compossible liberties (and thus, ultimately, everybody's sphere of freedom).

For this insight, no moral *reason* is required, a calculating *rationale* suffices.¹²⁴ The necessary system of regulation is hence presented as a legal structure detached from the – qualitative – debate about the good life. Everyone could accept its strictures (as has been said, again and again, from Thomas Hobbes to John Rawls) regardless of their ultimate moral or religious orientation, only because of a clever – quantitative – calculation of one's own advantage, i.e. his or her private sphere of options.¹²⁵ The liberal constitutional state can thus be justified, or so it seems, with minimal presuppositions, as a mere means of maximizing individual options. This independence from normative guidelines recommends the quantitative conception of freedom, it is said, for cultural export and the legal governance of a continually globalizing world.¹²⁶

All is not well, however. The model forces into the private sector each aspect that does not rhyme and chime with the logic of a quantitative growth in the individual's range of options. Often the concrete contexts of everyday freedom are depreciated. The environment, society, and posterity (*Umwelt, Mitwelt und Nachwelt*) play only a marginal role in theories of quantitative freedom. Respect for others who are socially, economically, or medically weak, or legally underprivileged, or politically discriminated against, or regard for non-autonomous nature appears strikingly insincere in quantitatively orientated liberalisms. And that has systematic reasons.

The theory of quantitative freedom is orientated around the model of a rational exchange. When, however, one has reached the point where the respect for the other is conceptualized as a *negation* (*qua* limitation) of one's own interests, one will grant this only insofar as one receives something similar in return. The conception of law within quantitative liberalism functions according to hypothetical, not categorical justifications; it motivates conditionally, not unconditionally. This holds true for positive and negative duties alike. One supports others when and only insofar as they can be obliged to give support of an equal quantitative value; otherwise one might withhold cooperation. Where no symmetrical exchange takes place, strictly speaking a reason for entering into society remains absent. How could one be obligated either to refrain from hurting or towards helping others, if as a rational utility-maximizer one gains nothing for oneself? We illustrate the problems that beset such approaches to constructing a robust philosophy of freedom by means of the work of Hayek (Sect.

¹²⁴ See Joel Feinberg, *Freedom and Fulfilment: Philosophical Essays* (Princeton: Princeton University Press, 1992).

¹²⁵ See Mark E. Button, *Contract, Culture and Citizenship: Transformative Liberalism from Hobbes to Rawls* (Pennsylvania State University Press, 2008).

¹²⁶ See Milton Friedman & Rose D. Friedman, *Free to Choose: A Personal Statement* (New York: Harcourt Brace Jovanovich, 1980); Michael Novak, "Economics as Humanism," *First Things: A Monthly Journal of Religion and Public Life* 18:2 (1997).

3.1) and Rawls (Sect. 3.2). For these problems invariably drive liberal thinking towards qualitative determinations of thought.

1.3.3 *Qualitative Theories of Freedom*

It is evident to everybody that a small amount of good choices is preferable to a large amount of unpleasant options. Let us imagine – following an example from the Nobel-prize winner Amartya Sen – two worlds, which in respect of the options for freedom present within them are numerically identical. The one contains the unattractive freedom to contract smallpox, while the other, as a result of political intervention and the subsequent eradication of the pathogen, enables the freedom of living without fear of that disease.¹²⁷ Viewed quantitatively, i.e. with regard only to the amount of available options, both worlds are comparable. Qualitatively there is of course a stark difference: But this shows up solely in concepts of freedom orientated around human weal and woe. Sheer quantity can hence hardly be the ultimate core of freedom. In the face of such a comparison, our reasoning by no means calculates, but judges; it does not measure, it evaluates.

The idea of qualitative freedom represents the corresponding attempt to differentiate meaningful from meaningless freedom. The question “*Which freedom?*” should predominate over the question “*How much freedom?*” The basic idea is: Only after we know about the goodness and quality of a certain option can we judge how much of this freedom we should grant to others and ourselves.¹²⁸ Thereby a theory of qualitative freedom does not *exclude* the category of quantity, but rather *includes* it: while taking pre-eminence, it in no way intends to replace it. From a qualitative viewpoint, it is neither inevitably true to say “the more, the better”, nor, conversely, “less is more”. Rather our assessment will always proceed by saying “it depends”: upon which freedom or whose freedom is claimed, and in which context.

Heteronomy can destroy freedom, but can self-imposed boundaries? For example, a promise that one friend gives to the other could be conceptualized – quantitatively – as a drastic reduction of the number of possible future behaviors to but one single one option: a disadvantage in need to be weighed up against the advantages offered by that friendship. Or – qualitatively – one can recognize in that promise a realization instead of a reduction of one’s own freedom. The individual can be proud of keeping his word to his friend. Loyalty need not be bought by utility, it can also express an attitude the promising party has to his friend and to the world at large. Similarly, one can conceive that autonomously provided limitations do not negate our freedom but rather manifest it – in favor of, for instance, our social, natural, and cultural environment.¹²⁹ For often what matters to us is less the maximization of

¹²⁷ See Amartya Sen, RF 602.

¹²⁸ See Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988), 14.

¹²⁹ See Philip Pettit, *A Theory of Freedom: From the Psychology to the Politics of Agency* (Oxford: Oxford University Press, 2001).

abstract options, and rather their concrete optimization, i.e. of the enabling and enhancement of particularly prized freedoms.¹³⁰

The following chapters will show in detail that this idea of qualitative freedom has precursors and paragons in continental philosophy. Yet, the idea of a qualitative discussion of freedom also found and finds well-known supporters among Anglo-American thinkers. John Locke, for instance, already qualitatively distinguished *liberty* from *license* according to whether or not a certain option could co-exist with reasonable laws. According to Locke, a human being in the so-called ‘state of nature’ has neither the freedom “to destroy himself” nor the freedom “to harm another in his life, health, liberty, or possessions.”¹³¹ Natural freedom aims at an appropriate, and not adverse, realization of human nature. Locke certainly shares Hobbes’ demand for extending individual freedom as far as possible, but does not go as far as regarding every governmental norm as a negation of *liberty*. It is more the case that he sees, in accordance with the natural law tradition of Stoicism, medieval philosophy, and late scholasticism, that some normative functions of the state are able to augment the freedom of the individual:

For *Law*, in its true Notion, is not so much the limitation as the direction of a free and intelligent agent to his proper interest, and prescribes no farther than is for the general good of those under that law: could they be happier without it, the *Law*, as an useless thing, would of itself vanish; and that ill deserves the Name of Confinement which hedges us in only from Bogs and Precipices. So that, however it may be mistaken, *the end of Law* is not to abolish or restrain, but to *preserve and enlarge Freedom*: for in all the states of created beings capable of laws, *where there is no law, there is no Freedom*: for Liberty is to be free from restraint and violence from others; which cannot be, where there is no law: But Freedom is not, as we are told, *A Liberty for every man to do what he lists*: (for who could be free, when every other Man’s Humour might domineer over him?) But a *Liberty* to dispose, and order as he lists, his person, actions, possessions, and his whole property, within the Allowance of those Laws under which he is, and therein not to be subject to the arbitrary Will of another, but freely follow his own.¹³²

By replacing the laws of the strong with the strength of laws, not freedom is reduced but its suppression. For Locke, therefore, freedom is not freedom *from* the state, but rather freedom *via* the state. While in Hobbes’ quantitative manner of thinking reasonable laws signify a loss of individual freedom, Locke understands them as beneficial to liberty. By stressing the *reasonableness* of governmental regulations, Locke puts a stop to all approaches which understand freedom as nothing more than the unobstructed realization of given preferences.

To replace this qualitative restriction with a quantitative procedure, that is, simply counting out and granting equal validity to all preferences, leads not to especially liberal, but rather to especially absurd conditions. Crazy, cruel, or inhumane preferences are not the same as average, everyday preferences.¹³³ Some options have less to do with

¹³⁰ See Jon Elster, *Ulysses and the Sirens: Studies in Rationality and Irrationality* (Cambridge: Cambridge University Press, 1979).

¹³¹ John Locke, “The Second Treatise of Government,” in Peter Laslett, ed., *Two Treatises of Government* (Cambridge, 1960).

¹³² *Ibid.*, 305f.

¹³³ See Gray, *Liberalisms: Essays in Political Philosophy*, 59.

autonomy than others. For example, the freedom of religious self-expression, on the one hand, and the freedom to purchase groceries at any hour, on the other, are significantly dissimilar and should be treated differently by the state. Do we not therefore require a theory of freedom which can capture and evaluate such qualitative divergences?

But which determination could we give to the idea of freedom so that meaningful limitations are facilitated, but foreign, arbitrary, and illiberal curtailments are prevented? In the *quantitative* logic, boundaries for individual freedom that serve to protect the freedom of all express unloved, albeit necessary, limitations on freedom, i.e. they are seen as a primary *disadvantage* to freedom, which only secondarily can be offset against the *advantage* of increased security or utility. From the *qualitative* point of view, they appear differently: as affirmative acts of an all-round realization of freedom. External limits and immanent boundaries are not alike. Metaphorically speaking: A wall constrains the freedom of movement in a different way than one's own skin. One may eventually win freedom by tearing down a wall, but one will hardly win it by tearing up one's own skin.

When the idea of qualitative freedom demands basic defensive rights (*Abwehrrechte*) (like freedom of expression, freedom of religion, freedom of movement) against infringements upon these by third parties or the state, this occurs quite differently than in theories of quantitative freedom. Unlike the latter, the qualitative consideration does not resort to *hypothetical* calculations whereby *if* the granting of those rights appears generally useful *then* it is rational to impose corresponding restrictions. Instead the logic of qualitative freedom *categorically* takes up the issue: *Because* securing these protective rights makes it possible for citizens to undertake the independent qualifications of their personal freedoms – within certain boundaries – they *therefore* are unconditionally called upon to grant each other these selfsame kinds of freedoms. The *conditioned* validity – depending on proofs of reciprocal utility – of the quantitatively liberal derivation of protecting freedoms from undue regulations is therefore surpassed by an unconditional logic in the qualitatively liberal approach.

The idea of qualitative freedom therefore also extends to *asymmetrical* relationships. We owe the establishment and granting of their rights to freedom also to people from whom we receive nothing in return. Be they distantly living human beings or members of future generations, or be they severely handicapped or senile persons. Every single human being's claim to freedom depends – qualitatively observed – not on his or her equivalent contribution or utility, but rather is recognized in and for itself: as the fundamental right of every person, as the universal human right. In this regard, Martha Nussbaum and Amartya Sen continually pose the question concerning which capabilities human beings require in order to first and foremost transform abstract rights into concrete opportunities, or in what way the use of certain freedoms on our part obligates us to enable our fellow man to seize such freedoms.¹³⁴

¹³⁴ See Benedetta Giovanola, "Re-Thinking the Anthropological and Ethical Foundation of Economics and Business: Human Richness and Capabilities Enhancement," *Journal of Business Ethics* 88:3, 421–444; Domènec Melé, "Editorial Introduction: Towards a More Humanistic Management," *ibid.* 413–416.

At the same time, the idea of qualitative freedom is open to questions of moral commitments, ecological sustainability, social co-determination, and cultural sensitivity. From the perspective of quantitative freedom all those issues register as external limitations of private license until their utility is proven for the maintenance of the freedom of everyone. From the perspective of qualitative freedom, on the other hand, one has to consider whether and in which way these goals help us give meaningful contours to freedom; thus, these objectives appear not necessarily as external limits, but can also be understood as internal boundaries of self-determination through which the true content and actual form of freedom comes to the fore.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

