



Beyond binary discourses on liberty: constant's modern liberty, rightly understood

Avital Simhony

To cite this article: Avital Simhony (2022) Beyond binary discourses on liberty: constant's modern liberty, rightly understood, History of European Ideas, 48:3, 196-213, DOI: [10.1080/01916599.2022.2056332](https://doi.org/10.1080/01916599.2022.2056332)

To link to this article: <https://doi.org/10.1080/01916599.2022.2056332>



Published online: 31 Mar 2022.



Submit your article to this journal [↗](#)



Article views: 21



View related articles [↗](#)



View Crossmark data [↗](#)



Beyond binary discourses on liberty: constant's modern liberty, rightly understood

Avital Simhony

School of Politics and Global Studies, Arizona State University, Tempe, AZ, USA

ABSTRACT

It is fruitless to interpret Constant's modern liberty from the binary perspective of either the negative/positive freedom opposition or the liberal/republican freedom opposition. Both oppositional perspectives reduce the relationally complex nature of modern liberty to one or another component of the relation. Such reduction inevitably results in an incomplete and, therefore, inadequate interpretation of Constant's modern liberty. Consequently, either of these binary frames of interpretation obscures rather than illuminates the full nature of Constant's modern liberty. Boxed into their irreconcilably opposed alternatives, both binary perspectives fail to appreciate that Constant's conception of modern liberty is a complex achievement irreducible without loss to either liberal negative liberty as non-interference or republican freedom as non-domination. Nor does combining liberal negative freedom and positive freedom (in the sense of ancient liberty), as Holmes well establishes, adequately tell the whole story of Constant's modern liberty. As a complex achievement, Constant's conception of modern liberty, I shall argue, blends negative freedom as associated with neo-Roman republican freedom as non-subjection to arbitrary power, negative freedom as non-interference, associated with the liberal tradition, positive freedom in the sense of inner self-development, and positive freedom as collective self-government or civic republican freedom.

KEYWORDS

Negative freedom as non-subjection to arbitrary power; negative freedom as non-interference; positive freedom as self-development (perfection of character); positive freedom as political participation; MacCallum's single triadic concept of freedom; J. S. Mill

1. Introduction

Constant's important essay – 'The Liberty of the Ancients Compared with that of the Moderns'¹ – has become a classic in the discourse on liberty. Scholars have used it in a battle of interpretations of various conceptions of liberty. That interpretive battle has been dominated by binary approaches – negative/positive liberty and liberal/republican liberty. Interpreting Constant's modern liberty from the perspective of negative–positive freedom à la Berlin,² places Constant squarely in the liberal camp of liberal freedom as non-interference. From the binary perspective of liberal freedom (non-interference) and republican freedom (non-domination), Pettit³, too, singles out Constant as a champion of negative freedom as non-interference. The difference, however, is that while Berlin praises Constant's negative freedom as non-interference from a liberal perspective, Pettit criticizes it, from a republican perspective, for failing to recognize the possibility of non-arbitrary interference (freedom as non-domination). This essay argues that there has been systematic misunderstanding of Constant's conception of modern liberty by both binary perspectives.

It is fruitless to interpret Constant's modern liberty from the binary perspective of either the negative-positive freedom opposition or the liberal-republican freedom opposition.⁴ Both oppositional perspectives reduce the complex nature of modern liberty to one or another component of the relations that constitute it. Such reduction inevitably results in an incomplete and, therefore, inadequate interpretation of Constant's modern liberty. In this way both of these binary frames of interpretation obscure rather than illuminate the full nature of Constant's modern liberty. They tend to leave out too much (albeit not deliberately) and omit what is significant. Thus, for example, J. S. Mill's freedom, singled out by Berlin⁵ as a champion of liberal negative freedom fits poorly into the negative-positive liberty binary. Similarly, Locke, though a proto liberal, upholds a version of freedom as non-domination.⁶ Furthermore, both oppositional perspectives equate liberalism with negative freedom as non-interference. Yet, liberals such as J. S. Mill, T. H. Green, John Dewey, and Constant, as I shall argue in this essay, defend positive freedom as an essential part of their liberal worldview. Moreover, both binary perspectives tend to produce unresolvable controversies because the opposing alternatives create an inevitable impasse. Thus, the question is raised whether J. S. Mill's feminism is liberal or radical, and recently whether Constant is a liberal or republican.⁷ These examples – Locke, Mill, Green, Dewey, and Constant – are far from exceptional in the history of political thought.

Boxed into their irreconcilable opposite alternatives, both binary perspectives fail to appreciate that Constant's conception of modern liberty is a complex achievement irreducible without loss to either liberal negative liberty as non-interference or republican freedom as non-domination. Nor does combining liberal negative freedom and positive freedom (in the sense of ancient liberty), as Holmes well establishes,⁸ adequately tell the whole story of Constant's modern liberty.

As a complex achievement, Constant's conception of modern liberty, I shall argue, blends negative freedom as associated with the neo-Roman republican idea of freedom as non-subjection to arbitrary power, negative freedom as non-interference, associated with the liberal tradition, positive freedom in the sense of inner self-development, and positive freedom as collective self-government or civic republican freedom.

Why is this important? Because a proper understanding of Constant's modern liberty (as also in the case of Mill's liberalism, as shall be discussed in Section 3) gives the lie to the standard historiography of liberalism as excessively individualist, bereft of sociability, thin in positive ethical content, and inherently secular. An adequate interpretation of Constant's modern liberty helps recast his liberalism in a new light. His liberalism has a clear republican bent, it is ethically perfectionist, bound up with religion, divorced from self-interest and is wedded to sociability. My interpretation rests on the claim that the full scope of Constant's modern liberty cannot be appreciated solely from his famous 'The Liberty of the Ancients Compared with that of the Moderns', notwithstanding its high value for such appreciation.

The essay comprises four sections. The first introduces MacCallum's triadic concept of freedom which, I argue, serves as the most effective tool for unlocking the complex nature of Constant's modern liberty. I employ the triadic structure of agent-obstacle-goal to analyze the relational structure of Constant's modern liberty in the other three sections. The second section examines Constant's employment of negative freedom as non-subjection to arbitrary power, including its relationship with negative freedom as non-interference. The third section focuses on positive freedom as self-development or human perfection, using a comparison with J. S. Mill, and the fourth section looks at participatory political freedom as internal to the self-development conception of freedom as self-development. One final preliminary remark: if I overburden the reader with quotations, then by way of excuse I recall the dominance and staying power of associating Constant nearly exclusively with negative freedom which I set out to challenge.

2. Section 1: introducing MacCallum's triadic concept of freedom

According to MacCallum, freedom is always a triadic relation of agent (X), obstacle(s) impeding the agent (Y), and a goal (Z) at which the agent aims. Every statement about freedom takes the

following form: X is (or is not) free from Y to achieve, be, become Z.⁹ To say that an agent is free is to say that he or she is free from something (an obstacle) to do something. Freedom, then, refers to a relationship involving an agent who is free from some obstacle and free to achieve some goal or become a certain sort of a person. The agent (X) can be an individual or a group. The obstacle (Y) refers to preventing conditions, both internal and external, negative or positive. The goal (Z) refers to actions and/or conditions of character.

MacCallum's triadic concept of freedom is a valuable tool for analyzing Constant's modern liberty, and for that matter any view of freedom, because it is neutral and inclusive. The triadic concept is neutral because it does not pick sides among ideological or normative views of freedom. The three components or variables of the triadic model are formal, empty of particular substantive content. To employ Rawls's terminology, MacCallum's triadic model is a *concept*, not a *conception*.¹⁰ Whereas a *concept*, Rawls holds, is formal, empty of content, a *conception* is a particular substantive interpretation of the *concept*, obtained by investing particular content in each of the concept's components. Thus, MacCallum's triadic model of freedom is a concept that structures all conceptions of freedom, that is all particular substantive interpretations of freedom. For example, Berlin's negative freedom is not a concept, but a conception of freedom, according to which the *agent* – a concrete, empirical individual – is (or is not) *free from* a particular obstacle – deliberate human interference – and *free to* make his or her own choice, however silly it may be. Berlin's own view of positive freedom, which he challenges, is again not a concept but a conception of freedom. It holds that the *agent* – a metaphysically split self – is (or is not) *free from* his lower or empirical self and *free to* pursue the correct path to the good life required by his higher or rational self. Or consider Taylor's positive exercise conception of freedom: the *agent* – a purposive individual – is (or is not) *free from* internal 'bad' motivations (e.g. fear) and external political impositions to exercise her evaluative capacities in pursuit of her real goal that she critically sets for herself.¹¹ In a nutshell, while MacCallum's single triadic concept of freedom invalidates Berlin's conceptual duality of 'freedom from' and 'freedom to', the triadic concept does not get rid of the duality of negative and positive freedom as substantive interpretations, namely as conceptions of freedom.¹² Nor does the single triadic concept extinguish the substantive difference between liberal freedom as non-interference and neo-Roman republican freedom as non-domination.

In addition to its neutral nature, MacCallum's triadic concept is also inclusive in structure which renders it more valuable still as an analytical tool with which to explore various conceptions of freedom. Its inclusive nature means that freedom is not, and cannot be, simple. An agent is not simply free. To fully grasp an agent's freedom is to identify the particular agent, the obstacle that impedes him or her and the goal he or she seeks to achieve. Berlin's rejection of MacCallum's triadic concept as an error, therefore, misses the mark. Berlin argues that freedom is only dyadic in nature, consisting of an agent and an impediment.¹³ He gives the example of a man struggling against his chains, claiming that such a man does not aim consciously at any particular further goal or state. Berlin is, however, wrong to the extent that MacCallum's triadic concept does not, as such, require the sort of conscious aim that Berlin suggests, but rather, that an adequate account of an agent's freedom requires that we should consider the component of goal. The relationship between the three formal components is logical, not optional or contingent. Nor does MacCallum's triadic concept of freedom rule out other possible components if they are formal and neutral. Thus, for example the category of 'enabling conditions' can be added to that of 'preventing conditions', expanding the inclusivity of the concept of freedom without undermining its neutrality.¹⁴

The relational complexity of Constant's conception of modern liberty is disclosed by MacCallum's modified triadic concept as follows. An *agent* – individual-as-individuality (below *Agent: Individuality* section) and individual as a political agent – is *free from* preventing conditions – unlimited and arbitrary external power, self-interest, personal passivity, and political apathy – *because of* enabling conditions – the rule of law, civil and political rights, legal constitutionalism, intermediary institutions and other institutions, such as an independent judiciary – *to* enjoy his independence, to develop his capacities, perfecting his character, and to participate as public-spirited citizen in the political sphere.

3. Section 2: negative freedom as non-subjection to arbitrary power

This section argues that to identify Constant's modern liberty with liberal negative freedom as non-interference is to ignore Constant's fundamental worry about subjection to arbitrary power, which he identifies as a significant obstacle to liberty. His recognition of this obstacle connects him with the republican conception of freedom as non-domination. Constant, however, does not employ the language of 'non-domination' or 'domination'. I shall, therefore, use the formulations 'freedom as non-subjection to arbitrary power' and 'unfreedom as subjection to arbitrary power'.

3.1. Freedom as non-subjection to arbitrary power

The primary sense of the neo-Roman republican conception of freedom as non-domination holds that to be free is 'not having to live in servitude to another: not being subject to the arbitrary power of another.'¹⁵ On Pettit's account, arbitrary power involves being 'subject to the potentially capricious will or the potentially idiosyncratic judgement of another'.¹⁶ In contrast to liberal negative freedom as non-interference, essential to freedom as non-domination is the claim that the absence of actual interference (non-interference) does not guarantee freedom. On this account, 'domination refers not to any actual interference, but rather to the ability to interfere when that ability is not suitably controlled'.¹⁷ Arbitrary power, then, is power whose ability to interfere with individuals' chosen action is not suitably controlled. To suitably control that ability, check domination, neo-Roman republican thinkers, such as Pettit, resort to legal constitutional mechanisms such as the rule of law.

Similarly, Constant's conception of freedom as non-subjection to arbitrary power holds that subjection to arbitrary power is compatible with the absence of actual interference. He further proposes that to suitably control the ability of arbitrary political power to interfere in the choices of individuals requires implementing mechanisms of legal constitutionalism.

The unsuitably controlled ability of arbitrary power to thwart the choices of individuals drives Constant's concern for individual liberty: 'Doubtless, even in countries ruled by arbitrary governments, all the civil liberties of all inhabitants are not infringed upon, just as in all the countries ruled by the Turkish sultan, not all heads are cut off. *But it is enough that such an infringement is possible, without any means of stopping it, for security to be nonexistent*'.¹⁸ Again, under despotism, Constant stresses, 'you enjoyed only precarious pleasures which arbitrary power threatened to take away from you at any moment'.¹⁹ These two quotations are neither isolated or exceptional statements in his argument.

To stress: Constant focuses on 'the principle of arbitrary power',²⁰ a principle, he claims, that manifests itself in

a government in which the will of the master is the only law ... where the master regards himself as the exclusive owner of his empire and considers his subjects merely as *usufructuaries*; where liberty can be taken away from the citizen without the authorities deigning to explain their motives, and without the citizens having any right to know them; where the courts are subject to the whims of power; where their sentences can be annulled; where those who are acquitted are dragged in front of new judges, instructed by example of their predecessors, that they are there only to condemn.²¹

What shines through here is the urgency of constitutional mechanisms to provide suitable checks on the ability of political authority to arbitrarily interfere in individuals' self-chosen action. The point to emphasize now, however, is that the phrase 'subjects merely as *usufructuaries*' is telling because it is a legal concept developed in Roman law regarding a master-slave relationship (albeit with a temporary master). Such a relationship constitutes the paradigm of unfreedom as domination. 'This legal concept developed in Roman law and found significant application in the determination of the property interests between a slave held under a *usus fructus* (Latin: "use and enjoyment") bond and a temporary master. Any property acquired by a slave as a result of his

labour legally belonged to that master'.²² That a ruler is able to hold his subjects 'under a *usus fructus*' is a concern that animates Constant's anguish about the 'principle of arbitrary power'.

One dividing line between freedom as non-domination and freedom as non-interference is expressed in each account's assessment of autocratic government. Whereas the second assesses the condition of individuals under autocratic rule as freedom, the first considers it as unfreedom. Berlin sides with the first. He holds that 'freedom as non-interference is not incompatible with some kinds of autocracy'.²³ Constant would disagree. He clearly joins the claim that freedom as non-subjection to arbitrary power is incompatible even with non-interfering autocracy. Recall his criticism of the Turkish Sultan under whom 'all the civil liberties of all inhabitants are not infringed upon'. Yet, the inhabitants are unfree because '*it is enough that such an infringement is possible, without any means of stopping it, for security to be nonexistent*'.²⁴ This difference between Constant and Berlin helps lay bare the high priority that Constant attaches to negative freedom as non-subjection to arbitrary power.

3.2. *The empire of the laws*

In the same way as neo-Roman republican advocates of freedom as non-domination, Constant invokes legal constitutional mechanisms as 'positive safeguards'²⁵ that suitably control the ability of political power to exercise arbitrary power. Consider the individual rights that he lists early on in 'The Liberty of the Ancients Compared with That of the Moderns':

ask yourselves ... what an Englishman, a Frenchman, and a citizen of the United States understand today by the word "liberty." For each of them it is *the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals*.²⁶

Freedom as non-subjection to arbitrary power is, as discussed below, bound up intimately with the rule of law. Security against arbitrary will grounds the rest of the list of rights: 'to express their opinions, choose profession and practice it' and so forth. These liberties, 'rights to do', are secured by subjection to laws the goal of which is protection from arbitrary will.

The 'empire of the laws'²⁷ provides the sort of institutional security that appropriately controls the ability of political authority to arbitrarily interfere with the free actions of individuals within the boundaries of the law. 'Security', Constant insists, 'is only to be found in good constitutional institutions'.²⁸ Much, then, as the rule of law is central to the neo-Roman republican conception of freedom as non-domination, it is also a cornerstone of Constant's freedom as non-subjection to arbitrary power.

If inappropriately controlled political power is the marker of arbitrary power, institutional security is the key defining feature of appropriately controlled political power. Constant could not be clearer: 'The best legislation is worthless if a good political organization does not guarantee it, just as there is no civil liberty if constitutional liberty does not take it under its wing'.²⁹ He forges an intimate link between individual liberty and institutional liberty or, as he labels it, 'constitutional liberty'. It is not the opposition between law and liberty that engages him. Rather, with advocates of freedom as non-domination and with Locke, it is the opposition between arbitrary law and liberty. Such opposition sets up 'security' as an essential companion of liberty. Constant's modern liberty can, then, properly be described as 'resilient', using Pettit's own terminology and its antonym, to use Constant's terminology, would be 'precarious'³⁰ liberty.

3.3. *Freedom as non-subjection to arbitrary power and freedom as non-interference*

To disclose the importance for Constant of republican freedom as non-subjection to arbitrary power is not, however, to deny that he also defends freedom as non-interference. Constant clearly employs the language of liberal negative freedom as non-interference. He identifies the traditional liberal liberties that spell out negative freedom.³¹ He speaks of the 'silence of the law'.³² He speaks of

limited government.³³ He employs the language of ‘harm to others’.³⁴ And he stresses the importance of individual rights as ‘a part of human existence which should remain independent of legislation’.³⁵ I claim, however, that Constant attaches primacy to negative freedom as non-subjection to arbitrary power, of which negative freedom as non-interference is an ally and supporter.³⁶ (See, however, the next section below.)

The primacy of republican freedom as non-subjection to arbitrary power is amply evident from the way in which Constant privileges arbitrary power as the chief threat to modern liberty and to the sort of politics that he endorses. The threat of arbitrary power is the vital force that energizes Constant’s rejection of ancient liberty, pure and simple, in favour of modern liberty. Modern liberty is the direct opposite of ancient liberty. Constant associates its two supporting institutions – ostracism and censorship – with the exercise of ‘legal arbitrariness’.³⁷ Whereas the arbitrary institutions of ostracism and censorship were suitable for ancient liberty, Constant insists, constitutional institutions that block the actual and potential exercise of arbitrary power are most suited for modern liberty.³⁸ Indeed, this antipathy towards arbitrary power is a unifying thread throughout some of Constant’s central writings such as ‘The Liberty of the Ancients Compared with That of the Moderns’, *Usurpation, Principles of Politics Applicable to All Representative Government, Principles of Politics Applicable to All Government, On Religion, and Commentary on Filangieri’s Works* (Part 1). Constant’s explicit defense of the republican Directorate government against a threatened restoration further supports the primacy of his anxiety about ‘the arbitrary principle’. He draws on the familiar republican argument that contrasts a republic with monarchy.³⁹

Furthermore, Constant, as we have seen, is no stranger to the language of master-slave – the paradigm of freedom as non-domination – which he uses as a feature of arbitrary power. The familiar republican master-slave contrast informs Constant’s modern liberty argument. This is but one example: in contrast with republican forms of government, ‘despotic forms make slavery sacred, so that the servile mind lasts longer than the actual servitude; and is so depraved, that even upon the fall of the tyrant, not a single nerve of any of his slaves, vibrates to the sound of independence’.⁴⁰ Note that tyranny or despotism is the pure form of monarchy.

More crucially, still, Constant’s focus on the ‘empire of laws’ and ‘constitutional liberty’ displays a key feature of freedom as non-domination. Nor is his forging such link between liberty and law exceptional in the liberal tradition. His position clearly aligns with that of Locke, who rejects Filmer’s account of freedom as ‘not to be tied by any laws’. To the contrary, Locke stresses, ‘*freedom of men under government*, is, to have a standing rule [i.e. law] to live by, common to every one of that society ... a liberty to follow my own will in all things, where the rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man’.⁴¹ Locke’s ‘freedom from absolute, arbitrary power’⁴² is the same as Constant’s freedom as non-subjection to arbitrary power. It is telling that Locke articulates his conception of liberty from absolute, arbitrary power in a section title ‘On Slavery’ – a connection, we have just seen, that Constant, too, makes explicit. A conceptual link between liberty, law, and certainty underpins both Locke’s and Constant’s liberty argument.

Note also the link both thinkers make between ‘absolute’ and ‘arbitrary’ power. Fundamentally, and like Locke, Constant equates unlimited power with arbitrary power. To set limits to unlimited power is to institutionalize sufficient barriers to the ability of political power to interfere arbitrarily. This is why, like Locke, he identifies liberty not simply as absence of laws, but absence of arbitrary laws. It is not the subjection to law as such that is the problem. Rather, the problem lies with subjection to arbitrary laws. Non-arbitrary laws, by contrast, are liberty-securing. Locke puts it well: ‘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’.⁴³ Non-arbitrary laws can be secured only by proper constitutional arrangements, as was shown above. This is why Constant insists on ‘the distinction between legislation and politics’.⁴⁴ His reason is clear: ‘The best legislation is worthless if a good political organization does

not guarantee it, just as there is no civil liberty if constitutional liberty does not take it under its wing'. In the absence of constitutional institutions, 'not only does the government makes the laws it wishes, but it observes them as it wishes'. No constitution means no certainty against arbitrary power, and therefore no security of individual liberty. In other words, the only assurance against 'the empire of the arbitrary' lies with 'the empire of the law' which, in turn, requires a constitutional infrastructure of 'positive safeguard'.⁴⁵

In a nutshell, Berlin's and Pettit's unproblematic and straightforward interpretation of Constant as a champion of liberal negative liberty misses the mark, then. Or does it?

3.4. Liberal freedom as non-interference and republican freedom as non-subjection to arbitrary power: friends or foes?

Pettit criticizes Constant's negative freedom, from a republican perspective, for failing to recognize the possibility of non-arbitrary interference as freedom-preserving and -enhancing. Pettit has a point as far as the economic sphere is concerned. Constant's insistence that the only legitimate functions of political power are negative militates against such recognition.⁴⁶ If so, it seems that coercive interference, a defining feature of liberal negative freedom, is the ultimate obstacle in Constant's conception of liberty. Liberal negative freedom gets the upper hand, after all. The question inevitably arises, then, how, if at all, does Constant connect the two conceptions of liberal and republican negative freedom – freedom as non-interference and freedom as non-subjection to arbitrary power – in his account of modern liberty?

Two resolutions are possible. They depend on whether the two conceptions of liberty – or liberal and republican perspectives, in general – are regarded as competing alternatives or as indistinguishable.⁴⁷ The first resolution holds that Constant's defense of both sorts of freedom embraces an inconsistency, as Pettit seems to hold.⁴⁸ This inconsistency arises because of Constant's stress on market society and economic liberty: 'When republican liberty is seen as a basis for criticizing market liberty and market society, this is plausible'.⁴⁹ Constant seems to fit nicely into this picture given that his liberalism is closely bound up with the market economics. As Kahan explains, Constant delineates the economic and political spheres, suggesting that negative freedom as non-interference is confined to the former, whereas the political sphere is the proper location of negative freedom as non-subjection to arbitrary power. The reason, Kahan posits, is tactical, as Constant admits: 'I did not wish, although all questions of this kind are interlinked, to put commercial freedom and civil freedom at the same level, for fear that the men who would disagree about the former' would then discredit the latter.⁵⁰

There is no doubt that a degree of inconsistency between liberal and republican freedom is Constant's argument, as evident in the way that both freedoms are present in his *Commentary on Filangieri's Work* – the primary text for his economic views. I believe, however, that taking the route of the second resolution is both possible and profitable.

The second resolution takes liberalism more expansively, not as narrowly tied to market economics. Accordingly, republican and liberal liberty – republicanism and liberalism, respectively – emerge not so much as rivals, but rather as cut from the same cloth: 'when liberalism is understood more expansively, and not so closely bound up with either negative liberty or market society, republicanism becomes indistinguishable from liberalism'.⁵¹ Adopting this resolution with respect to Constant is possible. Even Constant's tactical argument in favour of keeping commercial and civil liberty apart testifies to the primary significance of freedom as non-subjection to arbitrary power. His words, in another version of the quotation offered by Kahan, are telling: 'I could be wrong in my claims about freedom of production and trade without my principles of religious, intellectual, and personal freedom being weakened by this'.⁵² He clearly does not entertain any hesitation about the other freedoms. Even if one takes Constant's doubting words with a pinch of salt, there is little doubt that his rejection of 'the arbitrary principle' is a dominant motif, and not only in his political writings. His *On Religion* is a case in point.⁵³

Taking seriously the ‘expansive liberalism’ approach to Constant is profitable because it discloses the richness of his liberalism which is not only republican but is also bound up with religion in the form of religious sentiment as well as with sociability and human perfectibility, as will be discussed in the next section.

4. Section 3: positive freedom as self-development or perfection of character

Positive freedom as self-development or perfection of character is the least theorized dimension of Constant’s modern liberty.⁵⁴ Much recognized is his account of positive freedom in the sense of ancient freedom, that is collective self-government. This sense of positive freedom is interchangeably labelled recently as civic republican freedom. One possible reason for the neglect of Constant’s positive freedom as perfection of character is that the main text of Constant’s freedom is *AML*. While prominent here is freedom as enjoyment of personal independence, positive freedom as self-development receives but little attention in a couple of paragraphs.⁵⁵ Moreover, in stressing the need to combine ‘the two sorts of freedom’, Constant seems to have in mind freedom as enjoyment of personal independence and freedom as political participation.⁵⁶

The triadic model of freedom helps to unveil positive freedom as self-development or perfection of character. Briefly put, an *agent*, a bearer of individuality, is *free from* self-interest, selfishness, material objects, and passivity – to all of which, ultimately, arbitrary power gives rise – *to exercise* his faculties and perfect his character. The task at hand, then, is to understand the nature of individuality, of human perfection, and the sort of obstacles that hinder it.

The essential result of such an investigation is to recast Constant’s liberalism in a new light: not only is it bound up with republicanism, as was established in the previous section, it clearly embraces ethical perfectionism, is divorced from self-interest, bound up with religious sentiment and sociability. Before I proceed, however, a word of the relevance of J. S. Mill to my analysis.

4.1. The relevance of J. S. Mill

A useful aid in discussing Constant’s positive freedom as self-development is a comparison with Mill’s freedom as self-development. Berlin is keen to link Mill and Constant as typical proponents of liberal negative freedom. I wish to link them in order to establish that Constant, much like Mill, defies the dichotomous discourse of negative and positive freedom. Connecting Mill with Constant brings Constant’s positive liberty as self-development into sharper focus.

While Mill’s conception of self-development (or development of individuality) is a well known and familiar part of Mill’s scholarship, Constant’s conception of self-development, though recognized by scholars of his liberalism, has received less attention than other aspects of his thought. Importantly, moreover, Constant’s conception of self-development shares the essential features of Mill’s. In particular, both share a developmental view of human nature which they contrast with the mechanistic, unchanging view of it as embraced by Bentham. Constant and Mill view human persons as striving towards ‘perfecting and beautifying’ themselves, as Mill puts it, or perfecting their ‘noble and elevated part’, in Constant’s words.⁵⁷ They focus on human perfecting as an internal progressive process of developing the higher human capacities. One could dare to say that Constant anticipates Mill not only with regard to liberal negative freedom but also with regard to liberal positive freedom. Though Mill does not employ the language of positive freedom, his conception of ‘perfecting and beatifying’ individuality is just that. I urge that focusing our gaze on Constant’s and Mill’s conceptions of positive freedom as self-development reveals that liberalism has the sort of depth and richness that eludes the appreciation of a great deal of the critical historiography of liberalism because of the almost exclusive connection that such historiography forges between liberalism, negative freedom, and narrow excessive individualism.

4.2. Agent: individuality

Central to both Constant and Mill is the conception of individuality, rather than merely ‘individual’: ‘by freedom’, insists Constant, ‘I understand the triumph of individuality’.⁵⁸ Individuality is essential to Mill’s conception of self-development. The use of ‘individuality’ is important for two reasons. First, it gives prominence to what Mill calls ‘the distinctive endowments of a human being’ or ‘higher faculties’⁵⁹ the exercise of which is the core of positive freedom as self-development or human perfectibility.⁶⁰ Second, ‘individuality’, as distinct from ‘individual’, accentuates ‘sociability’ as a vital part of human perfection, not merely an optional one.

4.3. Goal: freedom to self-development, perfection of character

Both formal features and substantive content make up positive freedom. Formally, positive freedom is a concept of autonomy and is an exercise concept. Substantively, positive freedom consists in the development of intellectual, emotional, moral, and social capacities.

Though both thinkers use the term rarely, their positive freedom is a conception of autonomy or self-government. The role of autonomy in Mill’s thought is well recognized in the literature. Autonomy is also present in Constant’s account of human perfection. In his discussion of perfectibility, he stresses that the individual ‘must be master within, before he is so without’.⁶¹

Autonomy is not univocal. It can be purely rational or emotional, neutral or perfectionist, bound up or not with a metaphysical split self. For Mill and Constant, as we shall see below, autonomy as positive freedom incorporates both rational and emotional elements, is invested with moral content, and is not associated with a metaphysically split self.

Whatever the substantive content invested in it, in hands of Mill and Constant, autonomy as positive freedom emerges as an exercise concept, to use Charles Taylor’s label.⁶² Distinguished from the opportunity concept of freedom, the exercise concept posits that freedom consists in the actual exercise of capacities. It consists in what Mill calls ‘self-education—the human being training of himself’.⁶³ Apt, in this context, is Peter Paul Seaton’s suggestion that, for Constant, “‘Human perfection’ ... might more precisely (if awkwardly) be translated as “‘human perfecting’”.⁶⁴ Exercise of capacities is bound up with activity. Mill’s criticism of a perfect benevolent despot highlights this claim. Notwithstanding his benevolence, a despot is detrimental to self-development because he thrives on, and requires, the passivity of individuals. A contrast between passivity and activity underpins both thinkers’ interpretation of self-development. Constant points out the destructive effect of reducing individuals ‘to the role of spectators’ and insists that ‘their [‘men of talent’] ability must find exercise’.⁶⁵ Political activity, as we shall see below, plays a constitutive role in self-development. Constant’s republican argument targets monarchies: “They condemn a great portion of our faculties and our hopes to inactivity; and, though repose be a good, yet inactivity is an evil’.⁶⁶ Note here that Constant does not equate repose with inactivity. As an evil, the latter is bound up with indolence, stagnation, and inertia generated by the disuse of human faculties. As a good, repose is, by contrast, bound up with enjoyment and satisfaction⁶⁷, that is with ‘personal happiness’⁶⁸ bereft of ‘selfish passions’, ‘sordid pleasures’, or ‘gross pleasures’.⁶⁹ Activity, moreover, is bound up with energy. While monarchy cherishes ‘a want of energy in its members’, liberty uses energy and fosters ‘a feeling of energy’.⁷⁰ Mill would agree. He contrasts energetic character with the passive character that is fostered by a benevolent tyrant.

Exercise of what sort of capacities, though? Rational, emotional, moral and sociable. They develop the ‘noble and elevated part’ of human nature,⁷¹ ‘the better part of our nature’,⁷² ‘the distinctive endowments of a human being’⁷³ or ‘higher faculties’.⁷⁴ Rational capacities are essential, but not to the exclusion of emotional and passionate ones (as distinguished from ‘mere sensation’) that ‘common reasoning cannot satisfactorily explain’.⁷⁵ Constant and Mill are indebted to both the Enlightenment and to Romanticism. Human perfection embraces further the exercise of moral

and sociable capacities. Developing ‘the better part of our nature’ is, then, multifaceted, not least because both thinkers insist on the organic unity of human capacities.⁷⁶

Both Constant and Mill hold that human nature is internally driven to perfection by deep dissatisfaction with what may be described as our lower nature. It would be false to regard this as insinuating a metaphysically split self. Rather, it is a recognition the human nature is capable of being motivated by higher and lower goals. It is a call for a sense of self-transcendence that both thinkers attach to the human drive for perfection. It is, in Constant’s words, ‘that noble disquiet which pursues and torments us, that desire to broaden our knowledge and develops our faculties’.⁷⁷ Mill refers to this drive as ‘a sense of human dignity which all human beings possess’.⁷⁸

Both Mill and Constant are adamant that this ‘noble disquiet’ lies at the heart of humans’ refusal to rest content with what Mill calls ‘lower pleasure’. He could easily agree with Constant’s way of putting this point: ‘There is not single one of us who, if he wished to abase himself, restrain his moral faculties, lower his desires, adjure activity, glory, deep and generous emotions, could not demean himself and be happy’.⁷⁹ The main obstacle to the pursuit of self-perfection, we have yet to see, resides in such selfishness, narrow self-interest, and material interests. They can be seen as negative markers of self-perfection.

Positively considered, human perfection requires the exercise of moral and sociable capacities. The exercise of moral capacities is bound up with Constant’s rejection of self-interest (of which more below) and the constitutive role of religious sentiment. It is important to be clear on what religious sentiment is not. Religious sentiment is opposed to ‘dogmatic religion’ as promoted by authority, which Constant regards as ‘an institution of intimidation’.⁸⁰ It also rules out ‘treating religion as a useful tool’.⁸¹ Constant is keen to rid human perfection of any utilitarian association: ‘It is useful that man sometimes prescribes to himself useless duties, if only to learn that everything that is good on earth does not reside in what he calls utility’.⁸² Much as utilitarianism fails to justify fundamental rights in the political sphere, it is unable to account for moral duties.⁸³

Religious feeling, integral to human nature, entails the capacity for self-sacrifice, self-denial, self-discipline. Indeed, ‘the power of sacrifice ... [is] the source of all virtues’,⁸⁴ stimulating in individuals greater generosity and sympathy and fostering moral development. It involves a sense of self-transcendence grounded in the conviction that there is ‘something which detaches us from ourselves by making us feel that perfection is worth more than we are’ and energizes every individual ‘to step beyond the narrow circle of his interests’.⁸⁵ Anticipating Tocqueville and Mill here, Constant’s moral perfection brings in sociability.

Sociability is an essential feature of human perfection, not merely an optional one. This important liberal claim is advanced by Mill’s claim suggestion that focusing only on one’s ‘own miserable individuality’ is a barrier to self-development.⁸⁶ Constant anticipates it: ‘there is always something mean and disgusting, in whatever relates to self alone’ for it manifests itself in selfishness that cramps one’s mind.⁸⁷

Note here the link that Constant and Mill forge between sociability and the moral dimension of self-development. For one thing, sociability encompasses concern for others since morality stimulates the individual ‘to step beyond the narrow circles of his interests’,⁸⁸ as Constant puts it, anticipating Tocqueville. This way, individuals learn to exercise other-regarding feelings of generosity and sympathy. Moreover, both Constant and Mill forge a necessary link between sociability and equality. ‘[O]pposed to any exclusive supremacy’ of some individuals over others,⁸⁹ Constant employs moral development-cum-sociability-cum-equality to criticize the master-slave relationship as a violation of self-development.⁹⁰ In the same vein, Mill singles out relations of subordination (husband and wife, capitalist owners and workers) as an obstacle to the development of both parties to the relationship. For both thinkers, then, equal relationships of mutual respect are internal to one’s self-development.

I said that autonomy as positive freedom is not univocal. Mill and Constant defend a perfectionist conception of autonomy as positive freedom since it is bound up with self-development understood as perfection of character. Their perfectionism, however, is ethical, not political. Neither

concedes to political authority the right to impose self-perfection, which requires the pursuit of self-chosen goals. Nor is their perfectionist autonomy bound up with monism. To the contrary. Because the capacity to choose is internal, their perfectionist autonomy is hospitable to diverse life projects. Moreover, though their autonomy as perfection of character is bound up with exercise of rational or intellectual capacities, it does not rule out emotional self-development. Both Enlightenment and Romanticism influenced Constant and Mill. Nor does their conception presuppose a metaphysical split self.

What obstacles hinder human self-perfection? That is the question to which attention must now turn.

4.4. Obstacles: the empire of egoism and individual interest

Self-interest or selfishness, the pursuit of mere material objects, and apathy are the main specific obstacles that block self-perfection. I shall focus here on narrow self-interest, ‘the empire of egoism and individual interest’⁹¹ as Constant calls it, trusting that the other two obstacles are sufficiently evident from previous discussions.

Both Constant and Mill divorce self-development from narrow self-interest and exclusive pursuit of pleasure. This should come as little surprise once one appreciates that both thinkers are highly critical of Benthamite utilitarianism. Mill holds that ‘A moralist on Bentham’s principles may get as far as this, that he ought not to slay, burn, or steal’, but fails to reach ‘the depth of character’.⁹² Constant agrees with this assessment of the barren doctrine of self-interest.⁹³ It depends on the following principled distinction: ‘All moral systems reduce to two. One gives us self-interest as our guide and well-being as our goal. The other proposes improvement, betterment, progress in perfecting ourselves as the goal’.⁹⁴ Unlike Tocqueville, then, the choice for Constant is not between selfish self-interest and self-interest rightly understood. Society that is governed by self-interest rightly understood fails to go beyond ‘industrious beavers ... or the well-regimented activities of bees’.⁹⁵

Constant’s rejection of the language of interest in moral discourse is striking. He views self-interest as a logical calculative tool that is destructive of the ‘noble and elevated part’.⁹⁶ As the sole guide of human action and life, calculation degrades the higher human faculties and dries up the sources of virtue. ‘Interest is limited in its needs and crude in its pleasures. It works for the present without looking farther into the future’.⁹⁷ Mill similarly criticizes Bentham for making narrow self-interest ‘the rule to all human conduct’.⁹⁸ Mill, to be sure, does not reject the language of interest, as such; rather, he recasts ‘interest’ in terms of ‘the permanent interests of man as a progressive being’.⁹⁹ Nonetheless, Constant’s condemnation of the destructive effects of calculative self-interest anticipates Mill’s own charge that Bentham was a ‘one-eyed’ man, a ‘systematic half-thinker’¹⁰⁰ because of his reductive conception of human nature. ‘Man is never recognized by him as a being capable of pursuing spiritual perfection as an end, of desiring for its own sake the conformity of his own character to his standard of excellence, without hope of good or fear of evil from any source but his own inward consciousness’.¹⁰¹

4.5. Arbitrary power: overarching obstacle

Whereas ‘religious sentiment’ elevates the individual above ‘the narrow circles of his interests’, arbitrary power corrupts the individual by forcing him into selfishness. Though individuals are forced into a state of spectatorship by arbitrary power, the ‘the must’ of exercising their faculties cannot be gotten rid of. Consequently, Constant holds, two escape routes for exercise are available: sedition or corruption. The inability to freely exercise their human faculties leads some ‘to attack authority’; others ‘will plunge into selfishness’, a form of moral corruption.¹⁰²

The destructiveness of arbitrary power is not, however, limited to its effect on the development of moral capacities. Constant insists on the indivisible and systematic nature of self-development.

Because human faculties are ‘intimately bound together’, constraining one cannot be done ‘without affecting the others’. Therefore: ‘As paralysis spreads from one part of the body to another, so it spreads from one to another of our faculties’.¹⁰³

In a nutshell: arbitrary power robs individuals of the exercise and development of their higher human faculties. For: ‘Arbitrary power, whether it exists in the name of one man or of all, will not let man be, even in his moments of rest and joy’.¹⁰⁴ Democratic power, then, is not, as such, immune to Constant’s charge of arbitrary power.

5. Section 4: positive freedom as active, public-spirited citizenship

Constant’s defense of modern liberty does not reveal an inevitable and simple opposition between his liberalism and democracy. To be sure, with Berlin and Pettit he is fully aware of the tyrannical potential of democracy, as is evident from the preceding quotation, from his rejection of ancient liberty, and from his criticism of the ‘democracy as fanaticism’¹⁰⁵ he found in the later phase of the French Revolution. Furthermore, Constant shares Berlin’s refusal to equate democracy and freedom. This equation is nothing more than mistaking ‘authority for liberty’,¹⁰⁶ as Rousseau had done. However, in contrast with Berlin and Pettit, Constant rejects a complete separation of individual freedom and democratic (participatory) freedom. The relationship between the two is richer than that.

I wish here to draw attention to two aspects of the relationship, both of which focus on democratic freedom in terms of active citizenship. The first one concerns the reciprocal relationship between the politically active citizen and political authority in its capacity of securing individual rights: ‘the people who, in order to enjoy the liberty which suits them, resort to representative government, must exercise an active and constant surveillance over their representatives’.¹⁰⁷ Vigorous public opinion should be regarded as a component of such political monitoring activity. While securing individual liberty requires a measure of participatory politics, participatory politics is barren without vigorous civil and political rights that secure individual independence.¹⁰⁸ In this way citizens’ active monitoring of political authority and constitutional limits on authority are instrumental to each other.

Political participation is, however, not merely instrumental. It is constitutive of positive freedom of self-development. To be sure, Constant holds that ‘political liberty is the most powerful, the most effective means of self-development’.¹⁰⁹ However, his account clearly reveals a constitutive relationship: ‘Political liberty ... enlarges their [citizens’] spirit, ennobles their thoughts’. Political participation, ‘the regular exercise of political liberty’, trains and develops not only rational, but also moral capacities of individuals by pulling them out of ‘the sphere of their usual labor and private interests’. Active democratic participation in local government and jury service draw out the rational and moral capacities of citizens.

This claim echoes the account of classical civic republicanism that links positive freedom to participatory politics.¹¹⁰ Participation in political (and social) institutions is constitutive of realizing human perfection. Exercising political liberty ‘enlarges their [citizens’] spirit, ennobles their thoughts, and establishes among them a kind of intellectual equality’.¹¹¹ Equal relations, recall, is a distinctive dimension of the sociable component of self-development. Inequality encourages the individual’s ‘private interest which isolates him from the general interest’ in which ‘the public spirit becomes corrupt’ and, therefore, lets ‘all that is ignoble in the human heart bloom’.¹¹² By contrast, relations of equal dignity and mutual respect foster social connectivity.

Constant’s argument, moreover, joins hands here with similar arguments advanced by both Tocqueville and Mill, who each develop them further. Tocqueville places a high premium on associative political and public action in civil society as a tool for combating the negative effect of the individualistic privatization of life, thereby also resisting soft democratic despotism. Much impressed with Tocqueville’s argument, Mill provides a developmental justification of democracy (in addition to his view of protective democracy). These arguments may be traced back to Constant.

In a manner that anticipates both Tocqueville and Mill, then, Constant regards public and political activity as educative. It draws out not only intellectual and sociable capacities, but relatedly, also moral capacities by fostering public spirited citizens.

6. Conclusion

This essay set out to establish the inadequacy of employing the oppositional perspective of negative–positive freedom and liberal-republican freedom in an interpretation of Constant’s modern liberty. The perspective fails to account for the relational complexity of his modern liberty by reducing it to one or another component of the relation. Both reductions fail to recognize (albeit perhaps unwittingly) three important components of Constant’s modern liberty: positive (or civic republican) participatory freedom, positive freedom as human perfection, and liberty as non-subjection to arbitrary power.

Why is this important? Not for reasons of pure conceptual analysis of ‘freedom/liberty’; rather because a proper understanding of Constant’s modern liberty results in recasting his liberalism in a new light as republican-ethical liberalism. Not only is his liberalism republican, it is clearly perfectionist (ethically, not politically), is wedded to religious sentiment (not a dogma or a single public religion), is divorced from self-interest, and necessarily embraces sociability. Constant’s liberalism (much like Mill’s) invalidates the standard interpretation (historiography) of liberalism as excessively individualist, bereft of sociability, of meagre ethical content, and inherently secular. Recognizing the full scope of Constant’s liberalism is not without important implications for appreciating the richness of the liberal tradition, of which he is moreover not an outlier but an exemplar.

Notes

1. Benjamin Constant, ‘The Liberty of the Ancients Compared with that of the Moderns’, in Constant, *Political Writings*, trans. and ed. Biancamaria Fontana (Cambridge: Cambridge University Press, 2010 [1818]) (hereafter ‘Liberty’), 309–28.
2. Isaiah Berlin, ‘Two Concepts of Liberty’, in his *Four Essays on Liberty* (Oxford: Oxford University Press, 1969 [1958]) (hereafter *Liberty*), 17, 19–20, 28, 221–2; see also Berlin’s introduction, xlvii where he refers to Mill and Constant as liberals ‘who prized negative freedom beyond any modern writer’. This is the standard interpretation of Constant’s modern liberty. See, e.g. Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998), 60, 117; Richard Whatmore, *Republicanism and the French Revolution: An Intellectual History of Jean-Baptiste Say’s Political Economy* (Oxford: Oxford University Press, 2000), xiii, 5, 199; James Livesey, *Making Democracy in the French Revolution* (Cambridge, MA: Harvard University Press, 2001).
3. Philip Pettit, ‘The Republican Ideal of Freedom’, in *The Liberty Reader*, ed. David Miller (London: Penguin Publishers, 2006), 223–4.
4. My challenge to binary approaches to analyzing freedom is consistent with Ian Shapiro’s argument about ‘gross concepts’. Ian Shapiro, ‘Gross Concepts in Political Argument’, *Political Theory* 17, no. 1 (Feb. 1989): 51–76.
5. Berlin, *Liberty*, 17, 19, 28.
6. John Locke, *Second Treatise of Government*, ed. and intro. C. B. McPherson (Hackett Publishing Company: Indianapolis and Cambridge, 1980 [1690]), sects. 22–3, 57: ‘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.’
7. Valentino Lumowa, ‘Benjamin Constant and Modern Freedoms: Political Liberty and the Role of a Representative System’, *Ethical Perspectives* 17, no. 3 (2010): 389–414.
8. Stephen Holmes, *Benjamin Constant and the Making of Modern Liberalism* (Yale: Yale University Press, 1984), 39–43.
9. Gerald MacCallum, ‘Negative and Positive Freedom’, *Philosophical Review*, 76 (1967): 312.
10. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 5–6, 9–10.
11. Charles Taylor, ‘What’s Wrong with Negative Liberty’, in *The Idea of Freedom*, ed. Alan Ryan (Oxford: Oxford University Press, 1979), 175–93.

12. Skinner and Baldwin claim that MacCallum's triadic model of freedom is really a negative concept of freedom because it embraces the category of 'constraint'. This, however, is wrong because constraint is an essential component of all accounts of freedom – which is precisely what MacCallum's concept establishes. Quentin Skinner, 'The Paradoxes of Liberty', in *Liberty*, ed. David Miller (Oxford: Oxford University Press, 1993), 202; Tom Baldwin, 'MacCallum and the Two Concepts of Freedom', *Ratio XXVI* (1984): 13. See also my 'MacCallum, Baldwin and Green on Freedom: One Concept, Two Conceptions, and One Complex Conception', *Collingwood and British Idealism Studies* 25, no. 1 (2019): 108–14.
13. Berlin, *Liberty*, xliii, n. 1.
14. Adding the component of 'enabling conditions' to that of 'preventing conditions' meets Carol Gould's criticism. Carol Gould, *Rethinking Democracy: Freedom and Social Co-operation in Politics, Economy, and Society* (Cambridge: Cambridge University Press, 1995), 38. She seeks to discredit the expansion of MacCallum's category of 'freedom from', namely incorporating into it social and economic forces. She argues that the single concept is essentially a concept of negative freedom in that 'freedom from' is capable of accounting only for removal of economic preventing conditions. 'Removal', she argues, is, however, not the same as, and does not as such require, the availability of positive enabling conditions. She is correct. Still, taking account of social and economic forces by adding the component of 'enabling condition' amends the triadic concept, neither subverting its neutrality, nor reducing it to a mere negative concept of freedom. For another example of amending the triadic concept of freedom without subverting its neutrality, see Ian Shapiro, *The Flight from Reality in the Human Sciences* (Princeton, Princeton University Press, 2008 [2005]), 153.
15. Pettit, 'Freedom as Antipower', *Ethics* 106, no. 3 (1966), 576.
16. Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Clarendon Press, 1997), 5.
17. Frank Lovett, 'Non-Domination', in *The Oxford Handbook of Freedom*, ed. David Smidtz and Carmen Pavel (Oxford: Oxford University Press, 2016), 109, 110; Pettit, *On the People's Terms. A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012), 58.
18. Benjamin Constant, *Commentary on Filangieri's Work*, trans., ed. and intro. Alan S. Kahan (Indianapolis, IN: Liberty Fund, 2015 [1822–24]), 22; emphasis added. See also, Benjamin Constant, *Principles of Politics Applicable to All Governments*, trans. Dennis O'Keefe, ed. Etienne Hoffman, intro. Nicholas Capaldi (Indianapolis, IN: Liberty Fund, 2003 [1806]) (hereafter *1806 Principles*), 401.
19. Benjamin Constant, *Usurpation*, in Constant, *Political Writings*, ed. Biancamaria Fontana (Cambridge: Cambridge University Press, 2010 [1813]), 111; emphasis added.
20. Constant, *Usurpation*, 115.
21. Constant, *Usurpation*, 114.
22. *Encyclopedia Britannica*, s.v. usufruct (law) <https://www.britannica.com/topic/usufruct>. Accessed 14 July 2021.
23. Berlin, *Liberty*, 129. See also Lovett, 'Non-Domination', 111.
24. Constant, *Filangieri*, 22, emphasis added.
25. *Ibid.*, 289.
26. Constant, 'Liberty', 310. See also, Stephen Holmes, 'The Liberty to Denounce: Ancient and Modern', in *The Cambridge Companion to Constant*, ed. Helena Rosenblatt, 59–61; Bryan Garsten, 'Religion and the Case against Ancient Liberty: Benjamin Constant's Other Lectures', *Political Theory* 38, no. 1 (2010): 4–33.
27. Benjamin Constant, *Principles of Politics Applied to All Representative Governments*, in Constant, *Political Writings* (Hereafter *1815 Principles*), 292; emphasis added.
28. Constant, *Filangieri*, 13; see also 43, 45, 56, 57.
29. Constant, *Filangieri*, 22; 46: 'constitutional freedom'.
30. Constant, *Usurpation*, 111.
31. Constant, 'Liberty', 310–11.
32. Constant, *Filangieri*, 27.
33. Constant, *Filangieri*, 26–8; Constant, *1806 Principles*, 38.
34. Constant, 'Liberty', 323; Constant, *1806 Principles*, 39.
35. Constant, *Filangieri*, 32–3. See also Constant, *1815 Principles*, 177; Constant, *1806 Principles*, 31.
36. My position here is similar to Bryan Garsten's claim 'that a serious campaign to combat arbitrariness could be helped by the idea of non-interference'. Bryan Garsten, 'Liberalism and the Rhetorical Vision of Politics', *Journal of the History of Ideas* 73, no. 1 (2012): 91. Alan Kahan has suggested to me that the two freedoms are equal partners.
37. Constant, 'Liberty', 316, 320–2. See also Holmes, 'The Liberty to Denounce': 59–60; Constant, 'On the Perfectibility of the Human Race', in *Specimens of Foreign Standard Literature. Philosophical Miscellanies*, ed. George Ripley (Boston: Hilliard, Gray, and Company 1838), Vol. II, 354, where he places 'the arbitrary character of ancient monarchies' as 'in the highest rank' the cause 'which have deprived us of this [moral] independence'.
38. Constant, 'Liberty', 324–5.
39. Benjamin Constant, *On the Strength of the Present Government of France and the Necessity of Rallying Round It*. Translated by James Losh (London: Bath, Printed by R. Cruttwell for G.C. and J. Robinson, Pater-Noster-

- Row, 1897 [1797]). https://play.google.com/books/reader?id=X_RbAAAAQAAJ&pg=GBS.PA91.w.3.0.0_63&hl=en
40. *Ibid.*, 78; see also, 74; Constant, *Filangieri*, 21, 26; Constant, *Usurpation*, 114.
 41. Locke, *Second Treatise*, sect. 22; original emphasis.
 42. *Ibid.*, sect. 23.
 43. *Ibid.*, sect. 57.
 44. Constant, *Filangieri*, 22, including the following two quotations.
 45. Constant, *Usurpation*, 96, and Constant, *1815 Principles*, 292, 289, respectively.
 46. *Filangieri*, 28, 30–1.
 47. Gerald Gaus et al., ‘Liberalism’, *The Stanford Encyclopedia of Philosophy* (Summer 2018 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/sum2018/entries/liberalism/>.
 48. Pettit, *Republicanism*, 8–11.
 49. Gerald Gaus, ‘Public and Private Interests in Liberal Political Economy, Old and New’, in *Public and Private in Social Life*, ed. S.I. Benn and G.F. Gaus (New York: St. Martin’s Press, 2003), 183–221.
 50. Quoted in Alan Kahan, ‘From Constant to Spencer: Two Ethics of Laissez-Faire’, in current issue: See also, Jeremy Jennings, ‘Constant’s Idea of Modern Liberty’, in *The Cambridge Companion to Constant*, ed. Helena Rosenblatt, 83–4. For another version of Constant’s claim, see Constant, *1806 Principles*, 228.
 51. Gaus et al., ‘Liberalism’. The authors cite Dagger among other authors who holds this position. Dagger is of special relevance here since he explicitly cites Constant’s view of freedom as an example of republican liberalism. His claim, however, concerns only Constant’s combining modern liberty as liberal negative freedom and ancient liberty as collective self-government. Richard Dagger, ‘Autonomy, Domination, and the Republican Challenge to Liberalism’, in *Autonomy and the Challenges to Liberalism: New Essays*, ed. John Christman and Joel Anderson (New York: Cambridge University Press, 2005), 182.
 52. Constant, *1806 Principles*, 228, emphasis added.
 53. See, for example, Constant, *On Religion*, trans. P.P. Seaton Jr, ed. T. Todorov and E Hofmann, intro. Pierre Manent (Carmel, IN: Liberty Fund, 2017 [1825–1830]), 816, 823–4, 910–11. Constant regards the abolition of ‘theocratic slavery’ as an essential step towards human perfection: Constant, ‘On the Perfectibility of the Human Race’, 361.
 54. Exceptions are Bryan Garsten, ‘Constant on the Religious Spirit of Liberalism’, in *The Cambridge Companion to Constant*, ed. Rosenblatt, 286–312 and Etienne Hoffman, ‘The Theory of the Perfectibility of the Human Race’, in *The Cambridge Companion to Constant*, 248–74.
 55. Constant, ‘Liberty’, 327–8.
 56. *Ibid.*, 326–7.
 57. J. S. Mill, *On Liberty*, in his *On Liberty and Other Writings*, ed. Stefan Collini (Cambridge: Cambridge University Press, 1989 [1859]), 59 and Constant, *On Religion*, 11, respectively.
 58. Quoted in Jennings, ‘Constant’s Idea of Modern Liberty’, 73.
 59. Mill, *On Liberty*, 59 as well as Mill, *Utilitarianism*, in his *On Liberty and Other Essays*, ed. John Gray (Oxford: Oxford University Press, 1991 [1861]), 139, 140, and *On Liberty*, 76, respectively.
 60. Constant, ‘On the Perfectibility of the Human Race’, 346–76.
 61. Constant, ‘Perfectibility of the Human Race’, 354–6. See also Constant, *Filangieri*, 220.
 62. Taylor, ‘What’s Wrong’, 177–8.
 63. Mill, ‘Bentham’, in JS Mill, *Essays on Bentham and Coleridge* (2017 [1836]), 15; emphasis added. <https://www.earlymoderntexts.com/assets/pdfs/mill1838.pdf>
 64. Constant, *On Religion*, translator’s note n. 2, p. xvi; emphasis added.
 65. Constant, *Usurpation*, 125, 126, respectively.
 66. Constant, *On the Strength*, 73–4.
 67. On the important role of satisfaction, see Dimova-Cookson, *Rethinking Positive and Negative Liberty* (London: Routledge, 202), 5–52, and her ‘The Two Modern Liberties of Constant and Berlin’, in current issue:
 68. Constant, *1815 principles*, , 316.
 69. Constant, *Usurpation*, 113, 126 and Constant, ‘Liberty’, 324, respectively
 70. Constant, *On the Strength*, 75–6 and Constant, ‘Liberty’, 317, respectively.
 71. Constant, *On Religion*, 11; Constant, *Usurpation*, 124; Constant, *1815, Principles*, 277
 72. Constant, ‘Liberty’, 327.
 73. Mill, *On Liberty*, 59
 74. Mill, *Utilitarianism*, 139, 140 and *On Liberty*, 76.
 75. Mill, *Utilitarianism* (Batoche Books: Kitchener, Ontario 2001 [1863]), 11 and Constant, *1815 Principles*, 277, respectively.
 76. Constant, *Usurpation*, 122; Constant, *Filangieri*, 46.
 77. Constant, ‘Liberty’, 327.
 78. Mill, *Utilitarianism* (2001 [1863]), 12.
 79. Constant, ‘Liberty’, 327.

80. Constant, *1815 Principles*, 279.
81. Constant, *Usurpation*, 218.
82. Constant, *On Religion*, 817.
83. Constant, *1806 Principles*, 40–41.
84. Constant, *1815 Principles*, 278. See also, Constant, ‘On the Perfectibility of the Human Race’, 355.
85. Constant, *1815 Principles*, 278, 277, respectively.
86. Mill, *Utilitarianism*, 14. See also, his *On Liberty*, 76: ‘Human beings owe to each other help to distinguish the better from the worse. ... They should be forever stimulating each other to increased exercise of their higher faculties’.
87. Constant, *On the Strength*, 74–5.
88. Constant, *1815 Principles*, 277.
89. Constant, *Usurpation*, 98, 99.
90. Constant, *On the Strength*, 74–5. See also, Constant, ‘On the Perfectibility of the Human Race, 356, 361–2. Constant here identifies the ‘four revolutions’ as steps in the inescapable journey towards ‘perfectibility of the human race’, which he claims, ‘is nothing but the tendency towards equality’ (361).
91. Constant, *1815 Principles*, 297.
92. Mill, *Bentham*, 15.
93. Constant, *On Religion*, 8.
94. *Ibid.*, 12.
95. *Ibid.*, 11.
96. *Ibid.*
97. Constant, *Filangieri*, 46.
98. Mill, *Bentham*, 12.
99. Mill, *On Liberty*, 14.
100. Mill, *Bentham*, 12.
101. *Ibid.*, 13.
102. Constant, *Usurpation*, 126.
103. *Ibid.*, 122.
104. *Ibid.*, 118.
105. *Ibid.*, 108.
106. *Ibid.*, 107.
107. Constant, ‘Liberty’, 326.
108. Holmes, *Benjamin Constant*, 20, 73, 75–6.
109. Constant, ‘Liberty’, 327 (applicable also to the following two quotations).
110. J.G.A. Pocock, ‘Foundations and moments’, in *Rethinking the Foundations of Modern Political Thought*, ed. Annabel Brett and James Tully with Holly Hamilton-Bleakley (Cambridge: Cambridge University Press, 2006), 43, 46–7. See also Ian Shapiro, ‘Reflections on Skinner and Pettit’, *Hobbes Studies* 22 (2009): 188.
111. Constant, ‘Liberty’, 327.
112. Constant, *Filangieri*, 253.

Acknowledgments

I am grateful for the comments of Maria Dimova-Cookson, Alan Kahan, and Stephen Welch. My deepest thanks go to Abisi Sharakiya who critically reviewed my essay, offering invaluable insights.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Bibliography

- Baldwin, Tom, ‘MacCallum and the Two Concepts of Freedom’, *Ratio* 26 (1984).
- Berlin, Isaiah, ‘Two Concepts of Liberty’, in *Four Essays on Liberty* (Oxford: Oxford University Press, 1969 [1958]).
- Constant, Benjamin, *On the Strength of the Present Government of France and the Necessity of Rallying Round It*, trans. James Losh (London: Bath, Printed by R. Cruttwell for G. C. and J. Robinson, Pater-Noster-Row, 1897 [1797]). https://play.google.com/books/reader?id=X_RbAAAAQAAJ&pg=GBS.PA91.w.3.0.0_63&hl=en.
- Constant, Benjamin, *Principles of Politics Applicable to All Governments*, trans. Dennis O’Keefe, ed. Etienne Hoffman, intro. Nicholas Capaldi (Indianapolis, Ind.: Liberty Fund, 2003 [1806]).

- Constant, Benjamin, *Usurpation*, in Constant, *Political Writings*, trans. and ed. Biancamaria Fontana (Cambridge: Cambridge University Press, 2010 [1813]).
- Constant, Benjamin, *Principles of Politics Applied to All Representative Governments*, in Constant, *Political Writings*, ed. Biancamaria Fontana (Cambridge: Cambridge University Press, 2010 [1815]).
- Constant, Benjamin, 'The Liberty of the Ancients Compared with that of the Moderns', in Constant, *Political Writings*, trans. and ed. Biancamaria Fontana (Cambridge: Cambridge University Press, 2010 [1818]).
- Constant, Benjamin, *Commentary on Filangieri's Work*, trans. and ed., intro. Alan S. Kahan (Indianapolis, Ind.: Liberty Fund, 2015 [1822–24]).
- Constant, Benjamin, *On Religion*, trans. P. P. Seaton Jr, ed. T. Todorov and E. Hofmann, intro. Pierre Manent (Carmel, Ind.: Liberty Fund, 2017 [1825–1830]).
- Constant, Benjamin, 'On the Perfectibility of the Human Race', in *Specimens of Foreign Standard Literature. Philosophical Miscellanies*, ed. George Ripley, Vol. II (Boston: Hilliard, Gray, and Company, 1838).
- Dagger, Richard, 'Autonomy, Domination, and the Republican Challenge to Liberalism', in *Autonomy and the Challenges to Liberalism: New Essays*, ed. John Christman and Joel Anderson (New York: Cambridge University Press, 2005).
- Dimova-Cookson, Maria, *Rethinking Positive and Negative Liberty* (London: Routledge, 2020).
- Dimova-Cookson, Maria, 'The Two Modern Liberties of Constant and Berlin', *current issue*.
- Encyclopedia Britannica*, s.v. usufruct (law) <https://www.britannica.com/topic/usufruct>.
- Garsten, Bryan, 'Constant on the Religious Spirit of Liberalism', in *The Cambridge Companion to Constant*, ed. Helena Rosenblatt (Cambridge: Cambridge University Press, 2009).
- Garsten, Bryan, 'Religion and the Case against Ancient Liberty: Benjamin Constant's Other Lectures', *Political Theory* 38, no. 1 (2010).
- Garsten, Bryan, 'Liberalism and the Rhetorical Vision of Politics', *Journal of the History of Ideas* 73, no. 1 (2012).
- Gaus, Gerald, 'Public and Private Interests in Liberal Political Economy, Old and New', in *Public and Private in Social Life*, ed. S. I. Benn and G. F. Gaus (New York: St. Martin's Press, 2003).
- Gaus, Gerald; Courtland, Shane D.; Schmidt, David (2018), 'Liberalism', *The Stanford Encyclopedia of Philosophy* (Summer 2018 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/sum2018/entries/liberalism/>.
- Gould, Carol, *Rethinking Democracy: Freedom and Social Co-operation in Politics, Economy, and Society* (Cambridge: Cambridge University Press, 1995).
- Hoffman, Etienne, 'The Theory of the Perfectibility of the Human Race', in *The Cambridge Companion to Constant*, ed. Helena Rosenblatt (Cambridge: Cambridge University Press, 2009).
- Holmes, Stephen, *Benjamin Constant and the Making of Modern Liberalism* (Yale: Yale University Press, 1984).
- Holmes, Stephen, 'The Liberty to Denounce: Ancient and Modern', in *The Cambridge Companion to Constant*, ed. Helena Rosenblatt (Cambridge: Cambridge University Press, 2009).
- Jennings, Jeremy, 'Constant's Idea of Modern Liberty', in *The Cambridge Companion to Constant*, ed. Helena Rosenblatt (Cambridge: Cambridge University Press, 2009).
- Kahan, Alan, 'From Constant to Spencer: Two Ethics of Laissez-Faire', *current issue*.
- Livesey, James, *Making Democracy in the French Revolution* (Cambridge, MA: Harvard University Press, 2001).
- Locke, John, *Second Treatise of Government*, ed. and intro. C. B. McPherson (Indianapolis, IN: Hackett Publishing Company, 1980 [1690]).
- Lovett, Frank, 'Non-Domination', in *The Oxford Handbook of Freedom*, ed. David Smidtz and Carmen Pavel (Oxford: Oxford University Press, 2018).
- Lumowa, Valentino, 'Benjamin Constant and Modern Freedoms: Political Liberty and the Role of a Representative System', *Ethical Perspectives* 17, no. 3 (2010).
- MacCallum, Gerald, 'Negative and Positive Freedom', *Philosophical Review*, 76 (1967).
- Mill, J. S., *Essays on Bentham and Coleridge*. <https://www.earlymoderntexts.com/assets/pdfs/mill1838.pdf>.
- Mill, J. S., *On Liberty*, in *On Liberty and Other Writings*, ed. Stefan Collini (Cambridge: Cambridge University Press, 1989 [1859]).
- Mill, J. S., *Utilitarianism*, in *On Liberty and Other Essays*, ed. John Gray (Oxford: Oxford University Press, 1991 [1863]).
- Pettit, Philip, 'Freedom as Antipower', *Ethics* 106, no. 3 (1996).
- Pettit, Philip, *Republicanism: A Theory of Freedom and Government* (Oxford: Clarendon Press, 1997).
- Pettit, Philip, 'The Republican Ideal of Freedom', in *The Liberty Reader*, ed. David Miller (London: Penguin, 2006).
- Pettit, Philip, *On the People's Terms. A Republican Theory and Model of Democracy* (Cambridge: Cambridge University Press, 2012).
- Pocock, J. G. A., 'Foundations and Moments', in *Rethinking the Foundations of Modern Political Thought*, ed. Annabel Brett and James Tully with Holly Hamilton-Bleakley (Cambridge: Cambridge University Press, 2006).
- Rawls, John, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
- Shapiro, Ian, *The Flight from Reality in the Human Sciences* (Princeton: Princeton University Press, 2008 [2005]).
- Shapiro, Ian, 'Gross Concepts in Political Argument', *Political Theory* 17, no. 1 (1989).
- Shapiro, Ian, 'Reflections on Skinner and Pettit', *Hobbes Studies*, 22 (2009).

- Simhony, Avital, 'MacCallum, Baldwin and Green on Freedom: One Concept, Two Conceptions, and One Complex Conception', *Collingwood and British Idealism Studies*, 25:1 (2019).
- Skinner, Quentin, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998).
- Skinner, Quentin, 'The Paradoxes of Liberty', in *Liberty*, ed. David Miller (Oxford: Oxford University Press, 1993).
- Taylor, Charles, 'What's Wrong with Negative Liberty', in *The Idea of Freedom*, ed. Alan Ryan (Oxford: Oxford University Press, 1979).
- Whatmore, Richard, *Republicanism and the French Revolution: An Intellectual History of Jean-Baptiste Say's Political Economy* (Oxford: Oxford University Press, 2000).