

“An Address on Liberty”

on the Occasion of the 800th Anniversary of the University of Padova

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Deirdre Nansen McCloskey

In 1819 the Swiss philosopher Benjamin Constant, in the wake of the French Revolution, made a distinction between “ancient” and “modern” liberty. “Ancient” liberty was the right for a nation, such as the student “nations” at the University of Padova in the Middle Ages, or the corporate body of the University itself to, as we say, “determine itself.” Collective self-determination is the phrase. Modern nationalism, for example, such as in the Risorgimento, is about this so-called ancient liberty. Italy – that “geographical expression” – was to be able to determine itself, free of Austrian or other external governance.

But notice that the “self” in the expression “self-determination,” of eastern Ukraine or Afghanistan or a business corporation, is not literal but metaphorical. Senators or bureaucrats or rebels are not as a group “selves,” not literally. Self-government by a collective is a figure of speech, though sometimes a noble one. The representatives or the masters, not *il popolo*, do the determining. You can decide better than I can whether the collective nationalism of Italy, its achievement in 1871 of ancient liberty, self-determination of a group called *gli italiani*, turned out to be a good idea. Thoughtful Germans have doubts concerning their own 19th-century unification.

The self-determination of universities, though, their ancient liberty, is the distinctive right of the old universities of Europe, and has been an unequivocally good thing. At one time the Chinese examination system and the Muslim gatherings of scholars were the world’s greatest producers of knowledge. Since 1222, and especially since 1810 and the founding of the University of Berlin as the first unification of teaching and research, the European university has taken the lead. The secular or religious authorities were not allowed to enter without permission. It made for new ideas out of an academic, ancient liberty, like Plato’s Academy. This very University is, you well know, the second oldest in Italy. It was born out of dissent in the University of Bologna, students and faculty moving to Padova to achieve more academic liberty, a liberty from outside civic or clerical interference, like freeing Lombardy from the Austrians.

But under ancient liberty the *individual* person had no self-determination within her nation. When Athens was under attack, you took down your spear or your oar and went off to fight on land or sea for its ancient liberty from Persia or Sparta. *Modern* liberty, by contrast, is the individual’s right to be left alone by corporate entities such as states, or even universities. It is literally, Kant said, “autonomy,” Greek for the self-determination of a single person. It is 18th-century liberalism, that radical modern idea against the ancient hierarchies and the ancient liberties. The only constraint on modern liberty – other than urgent mobilization to defend the

ancient liberty of one's community, if the Persians make it to Marathon or the Russians to Kyev – is not to interfere with the equal right of other individuals to the same liberty. You are not at liberty to punch me in the nose. Your liberty stops at my nose. So the protesters in the name of liberty against covid-19 restrictions in my country and now Canada are merely selfish fools in claiming that they have the “liberty” to blow covid-19 virus up my nose. They do not know what modern liberty actually is, and are not even wise in their understanding of ancient liberty, subject to enslaving propaganda about Us and Them. That is why the authoritarians support them, eager to undermine both ancient and modern liberty.

Modern liberty, observe, is *not* a metaphor, as ancient liberty is, but is literally true about a single person's autonomy. It is, as the Latin says, to be individually a non-slave, a non-child – literally, not figuratively. Concerning many matters in which a slave or a child has no self-determination, such as what to eat for lunch or how to dress or what job to do, liberated human action of a *libera* is not to be infringed by a tyrant or by a collective, including a tyranny of the majority vote.

Liberty is of course from Latin *liber*, a liberated man, that is, a non-slave, and the adjectival form, “non-slave.” Take down a Latin dictionary and you will find that the entry under *liber* or *libertas* is exclusively about this legal status, of a non-enslaved adult (confusingly in Latin *liber* also means “child”). Only later, in the Middle Ages, was the word applied metaphorically to something other than civil status, to for example *libertas* from sin. And only in the modern world would anyone think that “liberty” was served by restricting occupational licenses or imposing tariffs on imports. The guildsmen of Venezia in the Quattrocento or the mercantilists of France under the Sun King did not pretend that their exercise of hierarchical privileges would grant any sort of liberty to the rest of us. On the contrary, people in France in the 18th century who imported calico cloth in violation of the prohibition of it for the benefit of wool manufactures were broken on the wheel or sentenced to the galleys. In that respect the former tyrants were more candidly monopolistic than recent politicians claiming that “protection” and “anti-trust” or “regulation” contribute to liberty.

But wait. English, you know, often has two words for things, such as “sheep” for the animal in the field shepherded by an Anglo-Saxon peasant and “mutton” served as Slow Food on the table of the French-speaking Norman lord. English has the Latinate word “liberty,” but also the Germanic word “freedom.” Once upon a time the two words meant very much the same thing, when everyone had literal masters, in their lord or husband or king, with absolute powers to break subordinates on the wheel. The two words certainly still meant the same thing when liberalism in the 17th and especially in the 18th century first arose in Holland and then in Britain. In a sentence, such liberalism was the novel, absurd, bizarre idea that no one should have a master, and all should be free/liberated adults.

In recent times, however, the word “freedom” in English has come to connote a distinctively recent form of *ancient* liberty, what the philosopher Isaiah Berlin called in 1958 (he did not like it) “positive liberty,” that is, the right to *have things*, such as publicly financed income or health care or education. When it is proposed that students in French universities should pay what looks to a U.S. citizen a very modest tuition for their educations, the students,

who are mainly the sons and daughters of well-off French people, riot in protection of what they regard as their ancient liberty to be massively subsidized on their way to upper middleclass occupations, by taxes imposed on ordinary French people. Isaiah Berlin's "negative" liberty," by contrast, a version of Constant's "modern" liberty, is a permission *not* to have a master, a husband, a public official, a policeman, or tyrant bossing you around. It is a liberty of permission, liberated from coercions such as occupational licenses or obstacles to starting a business or jailing you for being gay, not a positive right to have "equality of opportunity" (equalizing a good mother, say; or a handsome face; or high IQ) or equality of outcome (regardless of your merit or the scarcity of your skill) – both sought to be achieved by violating the negative liberty of other people.

And achieving equality income by positive liberty is a small part of full equality, and full equality is anyway impossible. Kurt Vonnegut, Jr., in wrote in 1961 a short story, "Harrison Bergeron," that makes the point:

The year was 2081, and everybody was finally equal. They weren't only equal before God and the law. They were equal every which way. Nobody was smarter than anybody else. Nobody was better looking than anybody else. Nobody was stronger or quicker than anybody else. All this equality was due to the 211th, 212th, and 213th Amendments to the Constitution, and to the unceasing vigilance of agents of the United States Handicapper General. . . . The television program was suddenly interrupted for a news bulletin. It wasn't clear at first as to what the bulletin was about, since the announcer, like all announcers, had a serious speech impediment.

The English "freedom" is as troublesome as "equality." The economist Amartya Sen speaks most unwisely of economic "development as *freedom*" in the sense of positive liberty. The Latin word in English, and I hope in Italian, by contrast has kept its solely political meaning, that is, freedom *from interference*, as a non-slave has the right to say no. Such a liberty is not freedom *in order to*. Berlin's notion of positive liberty, unlike negative liberty, promises possessions, what Sen called "capabilities."

Negative liberty merely says, "Leave me alone, thank you very much, and let me get on with acquiring possessions to the liberated extent I can and want." Supplemented by actual, effective help for the poor, it could be called Christian (or Jewish or Muslim or Hindu) liberty, liberty of the human will in theology and in the economy (McCloskey 2021). It is the core liberal idea coming to northwestern Europe in the 18th century. As the conflicted slave-owner Thomas Jefferson memorably put it in 1776, "all men [and women, dear] are created equal." Liberalism is true egalitarianism of permission, the only full equality that can be attained.

From Jefferson's vaguely Christian way of putting it you can see that the equality of souls in Abrahamic religions is being appealed to. As St. Paul said, "There is neither Jew nor Greek, slave nor free, male nor female, for you are all one in Christ Jesus" (Galatians 3:29). Yet St. Paul himself, like Jefferson keeping even his own children in slavery, sent a fugitive slave who had converted to Christianity back to his master (letter to Philemon), the point being that it was not until the 18th century, with the original liberals Voltaire and Smith and Wollstonecraft,

and the radical Christians such as the Quaker opponents of slavery, that anyone took seriously the *secular* equality of permission for souls.

Why do I point accusingly to the admirable Amartya Sen for using the Germanic word “freedom” in the way he did, as positive liberty? His equivocation between liberty and freedom matters because the English usage of “freedom” slips in the notion of a positive right to support from others – at the limit (admittedly not Sen’s ambition) the right to a university education, the right to have good parents, the right to be beautiful, the right to a high income. It slips into top-down socialism and beyond.

Allora? Well, we classical liberals have strong historical and economic evidence for the proposition that negative liberty, permitting Italians try out new designs, new jobs, new ideas, *causes* high income, good health care, universal education, all those goods and services, if not those personal qualities that cannot be made equal in initial opportunity or even most of final state: good parents, a handsome face, good genes. But we liberals, the honest sons and daughters of the universities, do not want to come to such a scientific conclusion by mere philosophical definition, *defining* the desirable, Amartya-Sen-ian “capabilities” – which we can show *do* come eventually to a liberated society – as the *same thing* as the liberty that causes them. It would be to avoid the testing of the scientific hypothesis by a mere verbal trick.

This is more than a fine point of philosophy, because if you take Amartya’s path you are led to believe that prosperity comes from the largest corporation of all, the modern, large, bossy, capably coercive state. It does not. The economic history shows that our Great Enrichment of the past two centuries – the Italians moving from \$3 a day per person on average to over \$100 a day – came mostly *not* from state action, mainly perverse anyway, but from human action (McCloskey 2016). Human action depends on negative liberty, the right as the sporting English put it “to have a go.” And go they did, for a rise in the ability to goods and services by fully 3,000 percent. It is a factor of *thirty*, dears, the most important economic fact about modern human history, and second only in importance in all of human history to the domestication of plants and animals.

And therefore a proper negative liberty, *libertas*, adulthood, non-slavery to a master or a father or a husband or the secret police had nothing whatever to do with the second pair of what our great U.S. president Franklin Roosevelt called in 1941 the “Four Freedoms.” With his splendid eloquence Roosevelt was trying to rouse the U.S. population to care about the war against the Berlin-Tokyo Axis. Almost a year before the Japanese attack on Pearl Harbor and Hitler’s declaration of war against the U.S. four days later, most Americans did not care.

The first two of his four “freedoms” articulated in January 1941 were uncontroversial matters of modern or negative liberty: “freedom” of speech and of religion. Liberty of speech is supposed to be typical of the European university. Yet liberty of speech is now under attack worldwide, and even in the universities. Kathleen Stock resigned her post at the University of Sussex after harassment by transgender activists, who did not like her essentialist views about the definition of a woman. I sharply disagree with Stock’s views. The popular novelist J. K. Rowling has similarly lamentable views. But we should all defend to the death the right of Stock in the university and Rowling in print to have incorrect, offensive, factually stupid, and

ethically evil opinions. Beyond such recent threats to liberal speech in Western universities, it must be admitted that a much bigger threat is in places like China, Russia, Turkey, and the numerous countries worldwide in which universities do not have ancient liberty, and in which the modern, negative liberty of the faculty and students is violently curtailed by *lo stato*.

Roosevelt's second, uncontroversial "freedom," of worship, was to put it mildly controversial in the medieval universities – although the Veneto was, you know, inclined to an unusual tolerance, necessary for a commercial republic. And their people were not the most obedient sons and daughters of the church of Rome. The Pope in fact once excommunicated the liberty-minded Venetians.

But the second pair of Roosevelt's four freedoms, "freedom from fear" and "freedom from want," are positive ones, and dangerous. They are freedoms to *have*, like Amartya's "capabilities." In the short run, obviously, if the state taxes Giovanni and is enabled thereby to give a positive liberty of free goods and services to Dario, Dario is mightily pleased – at any rate if he does not have ethical worries about the negative liberty not granted to Giovanni. Giovanni in turn views the transfer as an act of *governo ladro*, and feels justified to turn to the Italian indoor sport of evading the taxes.

Roosevelt in his rhetorical shift from the two uncontroversial, negative liberties to the two, much more controversial, positive liberties was appealing to the material interests of the Americans. He was telling them in effect that fascism would leave people, and them in particular, with less capabilities, less food, less security. He did it because he realized, with his characteristically fine political instincts, that the Americans did not actually care much for the negative liberties of free speech and religion. So adding in the positive liberties alleged to flow from Roosevelt's New Deal would be effective in achieving his end of getting the U.S. to join the Allies. In the same speech therefore he attacked *laissez faire* as old-fashioned and inadequate to the modern world in which the state is to play the part of the kindly slave master, giving his childlike charges goodies in positive liberty.

A Roman freedman was no longer required to obey a master. Good. He could speak his mind and could worship whatever god he wished. Orazio the Roman poet, son of a freedman, appears to have done so, except when he was flattering the first Roman emperor. But Orazio got no guarantee of *positive* freedom, such as enough to eat or freedom from fear of disease. He had liberal equality of *permission* to try to get such positive goods, by flattery or by excellence in poetry. Such permission, only, is the core of 18th-century liberalism. The first thing the French armies did in their conquests was to abolish the guilds that prevented people from entering trades or occupations as they wished. It has not been wise to extend liberalism into a "New" Liberalism, as it has been extended over the past century, favoring an expansive and therefore coercive equality of *opportunity* – or, at the last, to an even more expensive and coercive equality of *outcome*. Equality of permission to have a go, to start a business, to buy where you wish, to travel or indeed emigrate to where you wish, as southern Italians especially did massively in the 19th century, to enter any occupation you wish is what made for the Great Enrichment. The cause was not the imposition of governmental obstacles to such liberties in a New Liberalism such as Roosevelt's. Leftish "liberals," it is said, do not care what people do, as long as it is

compelled. It turns out on the contrary that permitting people to have a go arrives at those desirably higher levels of income and security by mutually advantageous trade and, above all, by the exercise of liberated human creativity. It does not come from planners in Rome or London or Brussels (McCloskey and Mingardi 2020).

Lo stato worldwide has taken the opportunity of covid-19 to extend its grip on its citizens, as in New Zealand and in China, at opposite ends of the spectrum of most negative liberties. The state is like that, a steady threat to modern, negative liberty. Indeed in the end *lo stato* has not even been very good at its declared aim of positive liberty, considering how much of what it extracts in taxes goes to bribes to the powerful and to the servicing of the interests.

I have always been amazed therefore that Italy has so few political liberals, though once in the proud tradition of Luigi Einaudi it had some very fine ones. After all, few educated Italians nowadays think it is a good idea to give more power to the *Italian* state. To the Swiss or Swedish state, maybe, or to the state of Minnesota. But not to my home state of Illinois, or to your masters *a Roma*. Giving more power to most states in the world is like giving whiskey to a teenage boy. Most states worldwide are bands of robbers. *Dico che*, wrote Giacomo Leopardi in the early 19th century, *il mondo è una lega di birbanti*, and went on to give many examples. He would not have had any trouble at all finding many, many more examples in the recent behavior of the Italian or the Federal U.S. state.

Liberty is liberty is liberty. The negative right to be left alone applies in the bedroom — you know the unhappy history in northern Europe of legal persecution of homosexuals, for example. *Ma dico che* it applies to our economic activities, too.

We tend to think of two levels only, the individual and the corporate, modern liberty and ancient liberty. But there's a third, a *tertium quid*, of spontaneous order in between. Much of our life is governed neither by the government's laws or by solely individual fancies, but by following or resisting or riding spontaneous orders. When we walk on the sidewalk, when we hug our friends, when we speak Italian we are swimming in spontaneous orders of traffic or friendship or language, like a school of fish, or indeed like liberated people in a society of other, equal humans.

No one outside of Xi Jinping's China or Stalin's Russia or Hitler's Germany would think it was a good idea for the state to regulate, say, music. You would not think it a good idea to have an Italian Ministry of Rock Music, choosing which bands you could listen to. Tyrannies do of course not agree. It is why, for example, jazz music, with its improvisations, and the more venturesome rock music, was banned in Soviet Russia. The Russian state liked instead the orchestras and ballets, governed top-down by a conductor or a choreographer.

Language is the chief example of spontaneous order. Yes, Mussolini forced Italians to adopt an Italian rather than the French spelling of "ristorante." But very little else about the Italian language has been planned in detail by the state — admitting that the adoption of the dialect of Firenze and Siena as the standard for education in the draft army had a great effect. But Italians would rise up against a Ministry of Italian regulating what Italian proverb you choose, or a Ministry of Friendship regulating with whom you take your mid-morning coffee.

Much of life is a spontaneous order of liberated people. Let's keep it, and extend it by means of negative liberty. It has worked out exceptionally well, this modern liberty.

My point is that it is strange to draw the line of negative liberty at door of the economy, enthusiastically regulating economic behavior while not regulating behavior the spontaneous orders of love or music or language or friendship. Liberty is liberty is liberty. Your liberty to use your property as you wish, subject to the non-harm limit of not dumping pollution on your neighbor, like blowing covid-19 up his nose, should be like your liberty of speech, or of whom you marry. In the French Declaration of the Rights of Man liberty of property was declared to be absolute, as it should be. In the Italian constitution of 1947, typically of modern constitutions, the right is notably less absolute. Liberty of religion increased from the 18th to the 20th century. Liberty in the economy decreased. I ask: are we going in the right direction since the bright dawn of negative liberty?

Modern, negative liberty, I submit, is extremely hard to maintain in an economy in which 40 to 50% of production is seized by the state for its purposes. Its purposes are regularly claimed to be lovely payments in positive liberty. It is so claimed even by the bloodiest tyrannies, of which there are distressingly many. Yet the positive liberty assured by most states consists in fact largely of handouts to political allies, such as the steady flow of subsidies from Rome to Sicily in exchange for Christian Democratic votes. In worse cases the positive liberty supports the Institute for the Works of Religion, or the cousins of the tyrant. More positive liberty leads to less negative liberty.

The economist Daron Acemoglu and the political scientist James Robinson in their impressive if relentlessly statist book of 2019 recommend a larger and larger state, and claim thereby to achieve "liberty." *Dio mio!* The British would say that their claim is "cheeky." It depends on the equivocation in English between liberty and freedom. They of course mean "freedom" in the English sense of positive liberty, achieved by more and more state coercion.

In 1944 the economist Friedrich Hayek wrote a book called *The Road to Serfdom*. He was writing against the nearly universal conviction at the time among observers such as Joseph Schumpeter and his student Paul Samuelson that central-planning socialism and the end of throughgoing private property was inevitable. The result of venturing down the road to serfdom, Hayek was saying, is that the modern state was re-inventing the medieval restrictions on negative liberty in the economy. Acemoglu and Robinson quote a version of Hayek's argument that he composed in 1956, and think they turn it back by saying that people will protest infringement of negative liberty. But Hayek's point was psychological, that people will in fact stop protesting, turning to Berlusconi and then Trump and worse for more of that positive "freedom" from responsibility as liberated adults. He feared that they would come to enjoy being serfs.

And so they did. It was that positive liberty, the handing out of goodies as though society was a cozy little family with Mamma serving spaghetti, which since Roosevelt spoke out that has made us into dependent children, voluntary slaves to *i genitori* in Rome or Washington. Have we actually avoided such a road to serfdom? I think not.

And yet I do not despair. Many noble institutions staffed by men and women with deep ethical convictions protect our liberties yet. One such were the Italian prosecutors and judges who stood up to the Mafia and its governmentally protected crimes. Another is Italian journalism, still independent – though look how quickly Erdogan killed off a free press in Turkey. So watch out.

But still the most ancient and glorious protector of negative liberty is the European university, of which the University of Padova is a splendid example. It has sheltered liberated thinkers such as Copernicus, William Harvey, Cardinal Reginald Pole, Tasso, Galileo (and, it must be admitted, Casanova: well, liberated love, too). The University's Latin motto is *Universa universis patavina libertas*, which means "The universal liberty of [the university of] Padova [is] universal [that is, for all]. So it is.

Let us keep it for another 800 years.

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