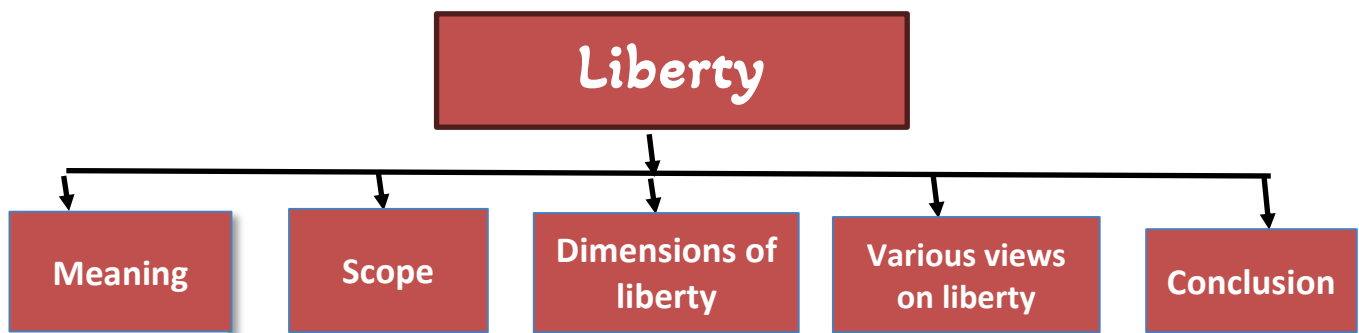




MEANING OF LIBERTY

1. The terms liberty & freedom are used interchangeably to convey the same ideas.
2. However strictly speaking freedom stands for a wider notion while liberty is one of the aspects of freedom.
3. Freedom as an ideal is held everywhere, that is why liberal writers use liberty & freedom interchangeably while Marxists writers prefer to use the term freedom to convey the same idea.
4. **Broadly speaking freedom implies 2 things:**
 - a. The quality of Human Being.
 - b. The condition of Human being.

Liberty in strict sense deals with the second condition. Politics is largely concerned with the conditions of Human beings. However political philosophy deals with both.

FREEDOM AS QUALITY OF HUMAN BEING

Human being as distinguished from other living beings is capable of freedom.

- Survival is the end of all animalistic existence. However as supreme court laid down in Menaka Gandhi case, human beings living is more than mere animalistic existence, it is life of freedom & dignity.
- Man being a rational creature is endowed with vision & imagination.
- He has created the whole complex of institutions, civilizations & culture in pursuance of this aim.
- Therefore, freedom is the distinctive quality of man.

- Friedrich Engels sought to define freedom as quality of human being by drawing a distinction between necessity freedom.
- Necessity denotes the condition which life of mankind governed by laws of nature.
- Necessity is blind only so far as it is not understood.
- Freedom is not existing independent of these laws of nature but in having knowledge of these laws & the possibility of systematically making them work towards definite ends.
- Freedom also therefore consists in control over external nature as well as control over ourselves a control found on knowledge of natural necessity.
- **In summary**, freedom is the quality of human being consists in obtaining scientific knowledge of the inexorable laws of nature & applying them to a definite end (benefit of mankind).

FREEDOM AS THE CONDITION OF HUMAN BEING

- When we consider freedom as the condition of human being, we enter the realm of liberty which is usually defined as **absence of constraint**.
- Constraint or restraint may be **internal as well as external**.
- In politics we are largely concerned with absence of external restraint, however in political philosophy we deal with both.

NEGATIVE & POSITIVE LIBERTY

Negative liberty

- When liberty is understood as **absence of external restraint** (state's interference, laissez faire in economy etc) it is termed as negative liberty.
- One should have the ability to achieve his personal goals without any hindrance or unreasonable restraint.
- Liberty is demanded for human being as a condition of life because we

are rational creatures.

- As justice Rohinton Nariman remarked in Puttuswamy case that liberty is not granted by the constitution it is only protected by it.
- Absence of liberty or freedom is akin to condition of slavery. In philosophy it is similar to Bondage.
- Champions of capitalism argue that in a capitalist system the worker is as free as the capitalist because both are free to discrete each other.
- However, this can't be said to be freedom unless worker has a real choice & freedom to exercise the choice between working under oppressive conditions & starving, this isn't a test of liberty.
- Therefore, it became imperative for the government to step in for removal of constraint or hinder the hindrances. This is positive liberty i.e. no man be free in real sense if there is internal restraint.
- Man is not only a rational creature but also a sensitive creature. Freedom in the widest sense requires that man should not feel any internal or external constraint freedom from physical pain, disease, ignorance, fear or want is as important as freedom from external restraints.

Welfare state

THE IAS AKADEMIA

It seeks to achieve liberty in the sense of freedom i.e. not only absence of external restraints but also removal of internal constraints. It not only safeguards liberty of its citizens but also takes care of satisfying their basic needs especially for those who cannot afford them. From this arises the conception of a welfare state which seeks to achieve both negative & positive liberty.

CONSUMER CULTURE:

A culture which gives primary to such values & belief that regard

consumption of goods & service as the highest aim of life & symbol of social prestige.

Scope of liberty

- The problem of liberty involves the adjustment of claims between individual & society. The state comes into the picture because it is the instrument or agency for regulating their relations
- If the claim of an individual is stretched too far, **“liberty becomes license”** while on the other hand if liberty is severely curtailed in the supposed interest of society, the result will be unconditional submission to authority, hence loss of liberty & amounting to tyranny.

Liberty & License:

When liberty is interpreted as absence or removal of all restraints on the action of individuals with utter disregard to the interests of other individuals— **“Liberty becomes license”**.

1. In that case one man’s liberty would become another’s constraint or oppression.

2. It is against social contract.

E.g.: Does a thief have liberty to occupation of his choice.

3. It is against the case of liberty itself. L. T. Hobhouse puts it “the unchartered freedom of one would be the conditional servitude of all but one. Therefore, a freedom to be enjoyed by all must impose some restraint upon all.

4. ERNEST BARKER PUTS IT UP IN PRINCIPLES OF SOUL & POLITICAL THEORY:

The need of liberty for each is necessarily qualified & conditioned by the need of liberty for all.

Liberty and Authority:

- To prevent liberty from becoming license, it is evidenced that liberty of the individuals must be restricted by equal liberty to be enjoyed by others.

- In a perfect world, rational agents pursue what is good for themselves as well as society. In such a world, no regulation is necessary.
- However, in the real world, individuals are at different stages of evolution & this not perfect. Therefore, it becomes imperative for an authority to regulate liberty for safeguarding liberty itself. Ernest Barker puts up 3 conditions to this - liberty within the state is relative & regulated it is the greatest common measures of liberty which is possible for all
 1. the **need of each** to enjoy similar & equal liberty with others.
 2. the **need of all** to realize liberty in the sphere of their capacities
 3. the **authority of the state** to regulate liberty & limitations on such authority. Therefore, if the liberty of the individual cannot be permitted to be absolute, the authority of state also cannot be absolute.
- If the individual is not perfect & hence his liberty needs to be regulated, can the state be assumed to be perfect & its authority therefore unlimited.
- The capital between liberty & authority has remained a theory issue in political theory. D.D. Daphel in problems of political philosophy states that most political theorists recognize that individuals' liberty & state authority conflict with each other & that a balance must struck between them & Hobbes is prepared to severely curtail liberty to make way for greater good of the state.
- Others like Locke, Mill argue that state authority should be markedly limited to leave as much room as possible for liberty.

MODERN UNDERSTANDING:

1. In Anuradha Bhasin case, SC said it is no judge of whether society needs more security or more privacy. Rather, society needs maximum security with least cost to liberty.
2. Puttuswamy case -- Justice Rohinton Nariman says liberty is not granted by the constitution; it is merely protected by it.
3. The British parliament is regarded as legally omnipotent. But a legislature that has any sense & wants to remain in office will play more regard to political than legal possibilities, to what it can affectively do than to what it

way legally does.

4. Restrictions on liberty must not solely rely on coercive power of the state for its enforcement. Rather authority has legitimacy & powers.

Legitimacy of any restrictions brings a moral imperative for people to obey & extends support to the actions of the state.

5. There are some spheres where liberty is non-negotiable like:

a. Freedom of speech & expression

b. Independence of media, independent judiciary

Any compromise is total compromise.

“The love of liberty is the love of others; the love of power is the love of ourselves

Dimensions of liberty

- Liberty may be formally described as “absence of restraint.” i.e. state should not impose any restraint on his activities in various sphere.
- To be sure absence of restraint by state does not mean unregulated, unchecked absolute liberty but only absence of unreasonable restraint. Unrestricted does not mean unregulated. It simply implies that the activities in question should not be subjected to “**unreasonable restraints.**”

Various spheres are:

1. Civil liberty:

Protection of civil liberties is regarded as essential feature of liberal democracy.

- Civil liberties refer to the legal instruments of protection of the individual from arbitrary acts of government. The freedom includes personal freedom, freedom of movement, thought & expression, faith & worship, freedom of association & peaceful assembly, rights to fair trial, equality before the law etc.
- In political philosophy Ernest Barker describes it as the liberty of man in the capacity of an individual person his personal liberty
- It is of 3 types:

- **PHYSICAL LIBERTY**: Freedom from injury or threat to life, health, movement of the body. There is almost universal acceptance that such liberty should not be curtailed except in interest of public safety, law & order, procedure established by law.
- **INTELLECTUAL FREEDOM**: Free speech, media etc.
 JS Mill, Tocqueville give a compelling reason for upholding freedom of speech & expression.
 Tocqueville in the classic debate between liberty vs equality says that equality in the sphere of speech & expression will lead to homogenisation of views ultimately leading to centralization of power.
 J. S. Mill was so impressed by this idea that he said that even if the opinion of one person differs from that of society, it has no right to support his views. If his opinion is right, society will get an opportunity to exchange error for truth & if his opinion is wrong, the person is benefitted to move towards a clearer perception of truth.
- **PRACTICAL FREEDOM**: Freedom of contract etc.
 Voluntary contracts are entered into for mutual advantages procured that no damage if “inflected on a third party.” Freedom of contract presupposes substantial equality between the two parties with each having a real choice between concluding & rejecting the bargain where no such equality exists, one party acts out of compulsions. E.g. ☐ Do you agree to terms and conditions?
 ↳ No real choice

2. **POLITICAL LIBERTY**

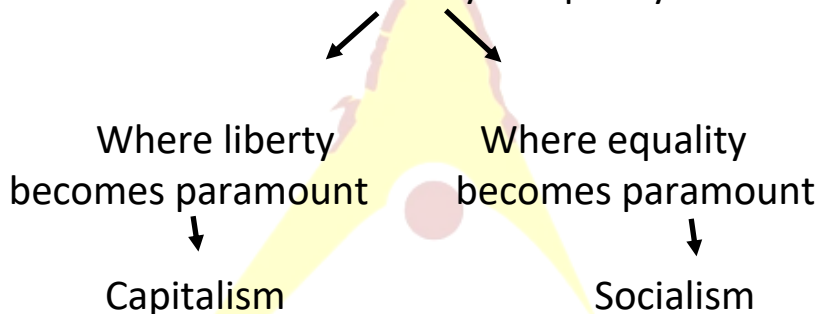
- While a man enjoys civil liberty in the capacity of an individual person, he enjoys political liberty in the capacity of a citizen
- The traditional view of political liberty is to curb the power of the government.
- However modern democracies where people themselves constitute the government, the term is redefined as liberties not to curbing government but to constituting & controlling, constituting it by a general act of consent [free elections] & controlling it by continuous discussion, dialogue & dissent.
- Amartya Sen in his work poverty & famine writes there nowhere in the

history has there been a famine in a country with free press & governance by dialogue - discussion.

- Therefore, political liberty is the right to be representation in decision making bodies. In broader sense to influence & shape public policy by free & open advocacy.
- Criminalization of politics, paid news, manufacturing consent & fake news are the biggest threats to political liberty.

3. ECONOMIC LIBERTY

- Economic liberty broadly speaking belongs to man in his capacity as a worker/economic agent.
- Economic sphere is the most debated - This is the sphere where the adjustment between claims of liberty & equality becomes necessary



- R. H. Tawney writes in his work equality that when liberty is constructed realistically as implying not merely civil & political rights but the security of the economically weak, a large measure of equality checks liberty from being exploitative & inimical to its own cause.
- In that sense, the idea of economic liberty reaches its logical conclusion in the concept of social justice.



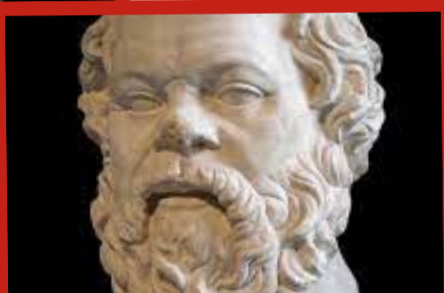
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