



The Propriety of Liberty

PERSONS, PASSIONS & JUDGEMENT
IN MODERN POLITICAL THOUGHT

Duncan Kelly



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Cambridge, January 2010

Abbreviations

AHR	<i>American Historical Review</i>
AN	Archives Nationales
APSR	<i>American Political Science Review</i>
BJHP	<i>British Journal for the History of Philosophy</i>
BL	British Library
BN	Bibliothèque National
CSSH	<i>Comparative Studies in Society and History</i>
CW	Collected Works
ECT	<i>An Essay Concerning Toleration and Other Writings on Law and Politics, 1667–1683</i>
EHR	<i>English Historical Review</i>
EJPT	<i>European Journal of Political Theory</i>
EPM	<i>Enquiries concerning Human Understanding and concerning the Principles of Morals</i>
EPS	<i>Essays on Philosophical Subjects</i>
ER	<i>Edinburgh Review</i>
HEI	<i>History of European Ideas</i>
HJ	<i>Historical Journal</i>
HPT	<i>History of Political Thought</i>
HWJ	<i>History Workshop Journal</i>
JBS	<i>Journal of British Studies</i>
JHI	<i>Journal of the History of Ideas</i>
JHP	<i>Journal of the History of Philosophy</i>
JLH	<i>Journal of Legal History</i>
JMH	<i>Journal of Modern History</i>
JoPh	<i>Journal of Philosophy</i>
JPP	<i>Journal of Political Philosophy</i>
LRBL	<i>Lectures on Rhetoric and Belles Lettres</i>
MIH	<i>Modern Intellectual History</i>
OC	<i>Oeuvres Complètes</i>
ODNB	<i>Oxford Dictionary of National Biography</i>
OPM	<i>Oeuvres philosophiques et morales</i>
P&P	<i>Past and Present</i>
PAS	<i>Proceedings of the Aristotelian Society</i>
PBA	<i>Proceedings of the British Academy</i>
PhilSt	<i>Philosophical Studies</i>
PhW	<i>Philosophical Works</i>

PMLA	<i>Proceedings of the Modern Language Association</i>
PPA	<i>Philosophy and Public Affairs</i>
PS	<i>Political Studies</i>
PT	<i>Political Theory</i>
PW	<i>Political Writings</i>
QdS	<i>Quaderni di Storia</i>
SVEC	<i>Studies on Voltaire and the Eighteenth Century</i>
THN	<i>A Treatise of Human Nature</i>
TMS	<i>Theory of Moral Sentiments</i>
TPM	<i>The Philological Museum</i>
TPR	<i>The Philosophical Review</i>
TRHS	<i>Transactions of the Royal Historical Society</i>
UCP	<i>University of Chicago Press</i>
WMQ	<i>William and Mary Quarterly</i>
WN	<i>Wealth of Nations</i>

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The Propriety of Liberty

This is an intellectual history of some of the major ways in which the idea of liberty was understood by John Locke, Charles Louis Secondat, Baron de la Brède et de Montesquieu, Adam Smith, John Stuart Mill and Thomas Hill Green. It might well then be asked what could possibly be said that merits yet another book on these thinkers in general, and on the topic of liberty especially. For a great many people have written on any one or all of these men, and often with specific reference to the idea of liberty. My answer to this reasonable question is simple, but perhaps surprising. It seems to me that despite the agglomeration of commentary and critique, indeed perhaps because of it, many interpreters have missed something absolutely crucial. This is particularly the case amongst those who have been keen to incorporate these writers into a canon of modern liberalism, and who often tend to read the concerns of contemporary liberal political theory backwards onto these putative founders of such a tradition. In this reading, what is typically missed is the relentless focus of these writers on the way in which the quality of individual agency is related to an understanding of freedom. My central claim is that the writers discussed in this book typically conceive of liberty as a form of propriety, or appropriate agency. Although they do not cultivate explicit theories of liberty as propriety, my use of the term ‘propriety’ with reference to liberty is designed to illustrate the connections between governed conduct and free agency that are central to each of these writers. Because of these connections, the arguments about liberty they present are inextricably linked to questions about the nature of personhood, the passions and judgement.

This means that at least part of my story concerns the intellectual history of what some modern philosophers have referred to as ‘agency-freedom’. Agency-freedom is the capacity of individuals to choose between alternative courses of action internally, and then act on their choices both in private and in public, and to be recognized or judged as being responsible for those actions. Analytically separable from claims about well-being, for example, agency-freedom thus understood is a relatively simple idea. It nevertheless has a complex and deeply rooted intellectual

history.¹ For example, the interconnections between power and control in the agency view of freedom are central to an idea of liberty as propriety or responsible agency. In what follows I shall try to trace how and why the writers I am interested in think about liberty in terms of the quality of what contemporary philosophers might call agency-freedom or even autonomy, because this focus on the quality of agency highlights the close connections between individual and political liberty that all of them take to be crucial.

As the subtitle to my story indicates, in exploring this topic one must be aware of the way in which political liberty has often been seen as a complex balance between claims about personhood, passions and judgement. Therefore, and for the sake of clarity in what might otherwise be a rather complicated narrative, let me try to present the central thesis of the book as sharply as possible. Taking my cue from a thought outlined most explicitly by Adam Smith, the propriety of agency-freedom refers to the judgement of action in terms of justice or injustice. This connection between propriety and justice points in turn to deeper sources of value that lie behind these judgements, and whose sources are found in our moral motivations. For the writers in this book, the predominant sources of such moral motivations are found in the passions. Therefore, the relationship between personhood and the passions, more specifically between passions and the judgements of agency undertaken by persons, is central to the overall account. The agency-freedom of persons takes place in societies, societies governed by conventional rules of justice that have developed over time. Therefore, and because of this cognate concern with the internal as well as external dimensions of individual agency, there is an analogy between the quality of agency undertaken by citizens and the quality of agency undertaken by individuals. Good men and good citizens combine in this narrative, which is why the account of the propriety of liberty reveals a quite clearly moralized conception of freedom. Indeed, although technically separable, the judgements of the rightness or wrongness of actions for Smith seem to be the basis for his account of our capacity to sympathize with action at the same time. Any adequate theory of moral and political judgement must incorporate both propriety and sympathy in Smith's sense, and it seems to me that the spirit (if not always the exact letter) of his own argument is to understand them as interdependent.² In this sense, sympathy with the propriety of agency is already always governed by conventional public standards of appropriateness, which receive their general expression in strict understandings of justice or right. This is where the interplay between political liberty and

¹ Sen 1985, esp. pp. 203–12; cf. Griffin 1986; Pettit 2001.

² Cf. Raphael 2007, esp. pp. 21–25.

the quality of agency is most apparent, and where, it seems to me, that Smith simply expresses more explicitly what had been just as important to Locke and Montesquieu before him, and to Mill and Green after him. Because of this interplay between public and private, or between political liberty and self-regulation, the relationship between persons, passions and judgement structures my discussion of liberty as propriety.

Put simply, for the writers discussed in this book there is a reciprocal relationship between political liberty and individual agency. This means that although what is deemed appropriate or just in one polity might not be so in another, how we should think about questions of justice and liberty could, nevertheless, have universal application. If justice determines the external standard of propriety, individuals are free if they make appropriate judgements about which actions to pursue in the face of conflicting internal and external pressures. In the public realm of action, moreover, these writers continually ask how a free agent must act in order that other agents recognize them as free, so that the quality of their action might in turn be judged. In their various answers, it seems to me, the focus on propriety in action, or the quality of agency, is what determines the judgement of freedom. Political liberty is the freedom accorded to citizens who balance their own private desires with the public requirements of justice and decorum, and citizens who act in accordance with justice and decorum are those who have political liberty. It is a circular argument, but it means that justice is both the standard of propriety and an expression of it, so that political liberty consists in doing what one should do in accordance with shared standards of judgement that are rooted in motivations of passionate individuals. This general application of the term 'propriety' is my own, but is an amalgamation of concerns treated sometimes separately in Smith's analysis in particular. Yet it seems to me to capture something crucial about the ways in which political liberty relates to the quality of agency more generally. In fact, beginning with Locke there is a very clear development of an extant language of self-propriety as independence, moving towards a discussion of rational freedom. I have already noted, in fact, how liberty as propriety typically presents itself as a moralized (and on occasion moralistic) view of freedom. This is unsurprising, however, given that it attempts to reconcile the moral responsibility of the free person with the political responsibility of the free citizen.

In developing this argument, my aim is to justify this focus by showing how political liberty is related to the capacity of an individual to act freely as a person. To do this means that my book is an attempt to write an intellectual history of these ideas over time. Thus, the capacity of an agent to act freely depends on an account of his or her personhood, which in turn (for some more explicitly than others) means a focus on

the nature of the will. This view does not collapse into an atomistic conception of liberty, however, where a free person is an individual chooser who resides outside of any social context. Rather the understanding of autonomy or free agency in operation here is always governed by social and political considerations. This context frames the extent to which agents can be judged, and indeed held responsible, for their actions as free persons because the restraints upon their liberty are grounded in the shared understandings of justice that bind citizens together. To revise a classic trope, both good men and good citizens want to act justly, even if part of the reason for this orientation is because acting justly is seen as instrumentally valuable. All persons want to avoid either causing, or correlatively feeling, resentment, because although resentment is the appropriate response to injustice, because of its force it is also a threat to the very fabric of political order.

Free agency is therefore akin to rational action, but this does not mean that it is simply instrumentally rational action. Indeed, it is not clear that one can even talk sensibly of rationality as purely instrumental.³ Instead, free agency here assumes a conception of rationality that views the justification for action in the choices made by individuals not simply by virtue of their having reasons for acting, nor in their having desires that those reasons express. Instead it is a form of volitionally responsible action. This means that agency-freedom is the capacity to determine what we want to do based on those things we identify with or care about, independently of the actual choices available to us at any one time, and which we can ourselves provide reasons for pursuing.⁴ This way of putting the point about volitional and discursive control, which is derived from contemporary philosophy of action, nevertheless captures quite neatly the type of freedom the writers under consideration in this book took to be crucial. More importantly, though, such an argument allows for the fact that one develops a sense of what constitutes appropriate action over time, as one develops as a person and as a citizen in a political society. Volitional capacity requires both internal and external judgement, and it is always located in the wider context of our relationships with others who judge us and who hold us responsible. This situation has manifest consequences for our understanding of the relationship between our status as persons ruled by passions that require regulation and justification, and the degree to which we are politically free. Indeed, this book might well be seen as a limited attempt to provide another historical rendering of those problems of action that contemporary rational choice theory deems

³ Sen 2002a, esp. p. 4; Raz 2005, pp. 2–28.

⁴ Jay-Wallace 2006, esp. pp. 58–62; also Frankfurt 2004, pp. 16f, 26, 39ff, 61, 79ff; see too Mendus 1999, esp. pp. 72ff; Wollheim 1999, pp. 130–35, 212–15.