MEDICAL ETHICS

Concepts of "person" and "liberty," and their implications to our fading notions of autonomy

Tuija Takala

J Med Ethics 2007;33:225–228. doi: 10.1136/jme.2006.016816

It is commonly held that respect for autonomy is one of the most important principles in medical ethics. However, there are a number of interpretations as to what that respect actually entails in practice and a number of constraints have been suggested even on our self-regarding choices. These limits are often justified in the name of autonomy. In this paper, it is argued that these different interpretations can be explained and understood by looking at the discussion from the viewpoints of positive and negative liberty and the various notions of a "person" that lay beneath. It will be shown how all the appeals to positive liberty presuppose a particular value system and are therefore problematic in multicultural societies.

concept of a "person," and those of positive and negative liberty. I will argue that many of the disputes around autonomy follow from different understandings of what is "true freedom." The core idea behind autonomy is, after all, self-government or self-rule, or, as some have put it, "the principle of autonomy is the principle of liberty."³ The idea of self-rule is closely linked with presuppositions of what the "true self" is, and what that self can freely choose. What I hope to show is that the roots of our debates concerning the meaning of "autonomy" can be traced back to the different ideas of what a "person" is and to the consequently different concepts of liberty. Although the main point of the paper is to explain the differences in our notions of autonomy, I will also make a normative suggestion.

In main-stream Anglo-American bioethics, the autonomy of individuals seems to have lost, of late, some of its standing as an unquestioned value. With the growing influence of feminist, communitarian and virtue ethics, the individual needs to, once again, reclaim and fight for his or her autonomy. Even among those who wish to hold on to autonomy, there is an increasingly visible gap between the different interpretations of the concept.

The roots of the modern notion of autonomy are twofold. On one hand, the concept is interpreted to belong to the tradition of rationalism where Immanuel Kant is often recognised as the main authority on the issue, and on the other, it is seen to arise from empiricism and in this reading the works of John Stuart Mill are the most often cited. The profound differences in these traditions explain some of the problems in using the term "autonomy." To give an extreme example, you can respect a competent patient's autonomy by allowing him or her to die if he or she wishes to do so; but, equally, you can deny him or her the option of death by appealing to the same principle. The former is the more likely conclusion in the empirical tradition, whereas the possibility of the latter suggests itself in (some of) the rationalist readings of autonomy. Customarily, however, regardless of their differences, these two traditions have been thought to refer to individual autonomy. The recent writings of Onora O'Neill and her defence of the non-individualistic (Kantian) view of autonomy have complicated the issue even further.^{1 2}

In this paper, I propose to explain the differences in the notions of autonomy by studying the

SELF-REGARDING CHOICES AND AUTONOMY

Everybody agrees that other-regarding behaviour should sometimes be constrained; but some theorists also think that self-regarding choices should be limited, whereas others disagree with this idea. According to the consequentialist interpretation of liberalism, self-regarding actions should never be curtailed in the name of autonomy. That is, a competent and informed adult must always be free to autonomously make his or her own choices in the light of his or her own preferences. This holds true even if his or her choices are, in the eyes of others, foolish, immoral or irrational.⁴ According to many other approaches, however, there are legitimate moral limits to autonomy. Indeed, many seem to believe that our self-regarding choices should sometimes be either internally checked or externally interfered with; a person cannot genuinely or rightfully choose whatever he or she wants. Reason, nature and community values are the most prominent candidates that set the required limits.

I believe that, to understand these strikingly different interpretations, we should study the two competing interpretations of liberty. These have been called the negative and positive concepts of liberty. The distinction between the two notions was introduced by Isaiah Berlin in his 1959 essay *Two concepts of liberty*⁵ and it has been used, and misused, ever since. The problem is that, there is no unequivocal way to understand the division. In what follows, I will give one interpretation of Berlin's two concepts, and argue that this reading captures the essence of his essay and also explains why there are so many faces of autonomy.

Correspondence to:
Dr T Takala, Centre for
Social Ethics and Policy,
School of Law, The
University of Manchester,
Williamson Building,
Oxford Road, Manchester
M1 5NG, UK; tuija.takala@
helsinki.fi

Received 26 March 2006
Revised 26 March 2006
Accepted 26 May 2006

HOW MANY CONCEPTS OF LIBERTY?

The difference between Berlin's two concepts can be, and has been, described in many ways. One is to say that negative liberty is freedom from something, and positive liberty is freedom to something. The freedom "to" can be interpreted as "actually being able to," but it can also, paradoxically, mean that the scope of our freedom to do what we want is limited to the pursuit of morally acceptable goals. Those who advocate positive liberty in the latter sense are primarily interested in identifying the source and nature of the inner moral limits of our actions, whereas the proponents of negative liberty are keen to define an external sphere within which a person should be left alone.⁵ These considerations are not always mutually exclusive. The negative concept can be thought of as determining a realm of absolute self-governance, however small that could be, and the positive notion as covering everything beyond that. It can also be argued that there is no real conflict between freedom to and freedom from, as any complete theory should take both these aspects into account.⁶⁻⁹

Much of the debate around the two concepts of liberty is clouded by the many, and often incommensurable uses of the terms "positive" and "negative" in various fields of philosophy. In the late 19th century, Green and others challenged the value of liberty which brings no benefits to its bearers. They argued that mere "negative" freedom from external constraints is useless if people do not have the physical and economic means to pursue the things they are, in theory, free to do.¹⁰ The distinction between negative and positive rights has also influenced discussions on different kinds of liberty. To have "a negative right" usually means that a person is at liberty to do something, and to have "a positive right" means that in addition, others have a duty to help the person achieve what the right entitles him or her to. Somehow this has been taken to mean that defenders of the positive concepts of liberty assign people with duties to help each other, whereas champions of the negative concept leave others unassisted. One could, of course, define the two concepts of liberty like this, but the interpretation cannot be derived from Berlin's essay. Also, Joel Feinberg's¹¹ analysis of constraints on liberty, in which he uses the terms "negative" and "positive" with yet another set of connotations, has also caused confusion. And perhaps we should not underestimate the effect of everyday language, where positive means good and negative bad, on philosophical discussions.

Whatever the exact mechanism, it seems that a combination of these accounts has led many non-liberal philosophers to think that the defenders of the negative concept of liberty are only concerned with the absence of external constraints, and not at all with people's well-being. They take this to mean that those in favour of the negative concept automatically see a libertarian market society as the best possible world, whereas defenders of the positive concept stand for welfare states and warm, caring communities. This reading is not, however, backed up by Berlin's analysis. He cites poverty as an example of unjustified external hindrances on freedom within the negative concept of liberty (Berlin⁵ page 122). As there is no one concept of true positive liberty, it does not follow that everybody who prefers the positive notion should necessarily be interested in people's material well-being. True liberty could, for instance, be best achieved in ascetic devotion to spiritual life.

The crucial difference between the competing understandings of liberty and autonomy, is, I believe, metaphysical and centres on the concept of a "person" or a "true self." In his essay, Berlin noted that what seems historically to separate the two readings of liberty is whether a person is viewed as a unity, or as a compilation of various competing, and not equally

valued parts (Berlin¹² p.134). This remark is, I would argue, the key to the whole essay. If a person is viewed as a unity, as is usual in the tradition of negative liberty, unjustified constraints of liberty are always in some sense external to the person in question. If, on the other hand, a person is divided into "good" and "evil" parts, which is symptomatic of the positive approaches, some constraints of liberty are inbuilt in our being. The freedom of our good part can be curtailed by our evil part, and when this happens, others can legitimately restrict our evil-part-driven freedom to liberate our better self. Within the negative concept of liberty, any such attempt to rescue our "true self" would be regarded as nonsensical. So, given that liberty and autonomy are closely connected, whether we think that true liberty is our shield against the external world or that it is there to protect us against ourselves, does make an enormous difference on how we believe that autonomy is best respected in healthcare ethics.

THE HISTORY OF INBUILT CONSTRAINTS

The story of divided selves in Western philosophy starts with Plato, and with the belief that reason is the most valuable part of a person and should therefore rule. Plato praised the mind of a philosopher who has been liberated from desires and emotions.¹³ Although Plato's followers see no problem in using liberty-related words in this context, it would, of course, make equal sense to say that the less important parts, like emotions, are enslaved to reason in his model.¹⁴

The admiration of reason was also visible in the influential work of Immanuel Kant. He argued that, to be free is to act according to the moral law, as prescribed by our reason.¹⁵⁻¹⁷ About Kant and his fellow rationalists, Berlin wrote

[They] do not regard all ends of equal value. For them the limits of liberty are determined by applying the rules of "reason" [...] In the same name anything that is non-rational may be condemned, so that the various personal aims [...] may, at least in theory, be ruthlessly suppressed to make way for the demands of reason. (Berlin⁵ pages 153-4)

For Plato and Kant, the reason within human beings that should rule the lower parts of the self was essentially universal—it was the same reason for all.

Aristotle introduced another type of inbuilt constraint to free choice, with some similarities to the first kind. Like Plato, Aristotle thought that the human self, or soul, is divided into parts of unequal value. The irrational components, which human beings share with plants and animals, must be controlled and suppressed.¹⁸ But there were also striking differences between the classical thinkers. Although Plato, and other rationalists after him used reason as the sole guide to reach "philosophical truths," Aristotle relied upon observations he made regarding the outside world. By observing the world around him, Aristotle inferred that every being, as a member of its species, has a telos (goal) towards which it naturally moves, thereby acting its part in the world. To properly play one's role as a human is to actualise one's potential as determined by one's telos as a human being. Although reason is the part that separates humans from other living beings, humans are also social animals, who need communities to survive and to be able to cultivate their reason. This is why Aristotle thought that it is good for human beings to contribute to the flourishing of their communities by doing their best in the social roles bestowed upon them by birth.

Aristotle's theory can be seen to give objective criteria to true human freedom. People should aim at actualising their potential, and everything that makes them stray from this path is wrong. The aristotelian view is reflected in the popular

notion that “what is natural is moral.”¹⁹ In talking about Aristotle’s or Plato’s views, however, it should be kept in mind that “freedom” in any modern sense was not a part of their vocabulary. “To be free” in ancient Greece often meant just “not to be a slave.” But since many ancient teachings are still with us, and are from time to time employed to give answers to modern moral problems, it is important to consider how these early philosophies could be interpreted in more contemporary terms.

At least two later ideas of what true liberty is can be derived from the aristotelian doctrine. First, Thomas Aquinas, and later Thomists, developed the notion of true freedom as an actualisation of our natural telos. Depending on the interpretation, the complete fulfilment of this goal can be reached either in this world, or in an afterlife. Secondly, aristotelian ideas on humans as social beings have given rise to another interpretation of true freedom, which is not necessarily at odds with thomistic thinking.²⁰ Philosophers sometimes labelled as communitarians start with the idea that individuals are essentially embedded in communities, and argue that true freedom is connected with the values and roles of the community people live in. The point is that there is no self apart from the community, and that attempts to be “free” outside the community are self-defeating and in no way expressions of true freedom.

All traditions of positive freedom postulate an “objective” element that determines what people should do. Acts that are in accordance with this objective constituent are thought to be “truly free”, whereas others are not. In most cases, it is believed that people need to be helped to understand what the objective criteria are and to act accordingly. Within the rationalist tradition of true freedom, our reason is the only part capable of making autonomous choices. Our emotions and intuitions are the products of a deceptive external world, and can only lead us to heteronomous decision-making. It is within the realm of reason that we can be truly free. Only our false consciousness can prompt us to think that other considerations could be of some worth. This general tendency is present in every tradition of positive freedom. If life, according to our natural telos, is thought to be what we should aim at, our freedom is realised only in actions that coincide with that goal. If what we truly are is determined by our community, our struggle to live differently is not a laudable quest for independence, but marks our failure to understand our true nature and the freedom it brings.

In the tradition of positive liberty the words “true freedom” and “moral” are used interchangeably. We are truly free only when we do what we ought to do. Doing something else could make us feel, or think, that we are free, but we are not, we are simply mistaken.

Since views regarding the nature and extent of true human liberty vary considerably, doctrines involving the positive concept of freedom do not necessarily imply that there is only one narrow route to follow. Some upholders of positive freedom think that there are a number of worthwhile goals in life, between which we are free to choose. It is just that not all choices should be allowed, or regarded as truly free.²¹

THE HISTORY OF TRYING TO ESCAPE EXTERNAL CONSTRAINTS

The most famous historical expressions of the negative concept of freedom, or liberty, can be found within the tradition of British empiricism. By a negative concept of freedom, I mean that a person is, by definition, free if he or she is not restricted by external causes. This is not a clear-cut characterisation. What exactly counts as an external cause has been a matter of dispute. Is illiteracy an external cause if it is the result of an

unjust educational system? How about lack of money? Do threats and offers restrict liberty?^{22 23}

Hobbes²⁴, who can be counted among the first champions of negative liberty, thought that being scared does not limit our freedom. According to him, liberty should be understood strictly in terms of a “lack of external constraints.” Therefore, even under threat, we are free to choose between the available options. Obviously, this view is at odds with most notions of patient autonomy. If a patient is put under a threat of any kind, say, by hinting that his or her future care might be less than optimal if he or she refuses to take part in a study, we do not think that his or her autonomy is respected.

Locke²⁵ is another oft-cited pioneer of negative freedom. He, too, defined liberty as the absence of external constraints to act or not to act, and to think or not to think. But there are strains in Locke’s thinking that actually bring him close to the tradition of positive liberty. Ultimately, these arise from the theological background of his theory, and from his reliance on reason as a universal arbitrator. Locke’s conviction that people are not free to take their own lives, because they have an inalienable, God-given right to life, does not really fit the negative idea of freedom.^{26 27}

Even Mill, the notorious defender of individual liberty who believed that individuals should have absolute sovereignty over their self-regarding actions, could not resist the call of the positive side (Mill pages 10–13,⁴ Berlin page 128⁵).²⁸ His defence of freedom only applies to people who are of age and endowed with full mental capacities. Those who do not fulfil these criteria can be paternalistically guided in the right direction in the name of their own freedom. The problem is that neither “being of age” nor “full mental capacities” can be neutrally defined. There is no decisive definition of mental fitness, and there is no universal agreement on who is old enough to decide for themselves. Both seem to change over time and place.

The idea that freedom means simply the absence of external restrictions has seldom been consistently upheld. Supporters of negative liberty, too, have, in the end, thought that moral concerns should at some point enter considerations regarding freedom and autonomy. Probably the most uncompromising advocate of negative liberty was Bentham³⁰, who categorically wanted to leave morals out of the discussion concerning freedom. According to him, we can freely choose to do both right and wrong. The fact that something is wrong does not make us less free to choose it.

TRUE LIBERTY AND PATIENT AUTONOMY

If by respecting autonomy we mean respecting patients’ freedom to decide for themselves, the knowledge concerning different definitions of freedom and where they come from becomes crucial. Many hold that there must be some limits to patient autonomy, but, as we have seen, there are many different proposals as to where to set these. The hard cases in bioethics often fall within areas where there is no agreement. Is a person free to decide that he or she does not wish to live anymore? Does a person have a right to opt for less-than-optimal treatment? Disagreements on questions like this show where the problems are.

In bioethics, many seem to think that a patient’s autonomy should be respected as long as he or she chooses rationally.^{31 32} Others have argued for a communitarian model, where even exceptional choices should be respected, but only if a community backs them up. When, for instance, Jehovah’s witnesses refuse blood transfusions, their wishes ought to be respected, because they belong to a well-defined and recognised religious community.³³ But, presumably, if I express the same wish, because my personal goddess has warned me against blood transfusions in a vision, my choice could be overridden.

In the debate on euthanasia, the ultimate boundaries of human freedom are tested. Are people free to forfeit their own life or are they not? It is all about freedom, “true freedom” or the freedom to make “moral” and “acceptable” choices, and there is no consensus regarding the limits. Some define the boundaries by reason, others by community values, natural rights, moral intuitions or sacred scriptures, and yet others hold that only grave harm to others should mark the boundaries.

SOME NORMATIVE REMARKS

What, then, should we do with all these, sometimes competing, proposals concerning the moral limits of patient autonomy? Perhaps we need to think back to the reasons given for respecting patient autonomy. Although in most cases it is true that medical professionals hold superior knowledge in terms of what would be medically best for the patient, many decisions taken in the modern health care setting are not only about the medical good, and the medical good is not the only good that people are after. Most decisions are also value judgments about what people see as valuable to them in their current situations. And in these decisions the doctor holds no special expertise.³⁴

Further, autonomy has been seen as important because, in modern secular and multicultural societies, there is no agreement on objective accounts of the “good,” the “moral” or the “truth.”³⁵ And if the lack of shared objective morality is the reason why autonomy is important and should be respected, autonomy cannot, at the same time, be limited by appeals to a particular view of the “good.” What this means is that appeals to a positive concept of liberty should not be allowed to limit our negative liberty. If the account of autonomy is grounded on a positive notion of liberty, it annihilates the value neutrality that respect for autonomy was supposed to protect. In multicultural societies there is no justification to build the notion of autonomy on an account of liberty that presupposes a particular value system. The negative concept of liberty has its problems, but it at least tries to keep morals and liberty apart.

Competing interests: None.

This article was produced as a part of the project Ethical and Social Aspects of Bioinformatics (ESABI), financed between 2004 and 2007 by the Academy of Finland (SA 105139).

REFERENCES

- 1 O'Neill O. *Autonomy and trust in bioethics*. Cambridge: Cambridge University Press, 2001.

- 2 Stirrat GM, Gill R. Autonomy in medical ethics after O'Neill. *J Med Ethics* 2005;**31**:127–30.
- 3 Rendtorff JD, Kemp P. *Basic ethical principles in European bioethics and biolaw*; Volume I. *Autonomy, dignity and vulnerability. Report to the European Commission*. Copenhagen and Barcelona: Centre for Ethics and Law and Institut Borja de Bioètica, 2000:25.
- 4 Mill JS. *On liberty*. Hertfordshire: Wordsworth Classics of World Literature, 1996, 10–13 (reprinted in: *On liberty and the subjection of women*).
- 5 Berlin I. *Four essays on liberty*. Oxford: Oxford University Press, 1969.
- 6 MacCallum GC Jr. Negative and positive freedom. *Philos Rev* 1967;**76**:312–34.
- 7 Feinberg J. *Social philosophy*. New Jersey: Prentice Hall, 1973:9–11.
- 8 Rawls J. *A theory of justice*. Oxford: Oxford University Press, 1972:202.
- 9 Narveson J. *The libertarian idea*. Philadelphia: Temple University Press, 1988:19–20.
- 10 Green TH. *Lectures on the principles of political obligation and other writings*. In: Harris P, Marrow J, eds. Cambridge: Cambridge University Press, 1984:199–201.
- 11 Feinberg J. *Social philosophy*. New Jersey: Prentice Hall, 1973:12–13.
- 12 Plato, Theaetetus. Newburyport, MA: Focus Publishing/R. Pullins Co, 2004: 174c–69.
- 13 Mulgan R. Liberty in ancient Greece. In: Pelczynski Z, Grey J, eds. *Conceptions of liberty in political philosophy*. London: The Athlone Press, 1984:7–26.
- 14 Kant I. *Metaphysical principles of virtue* (part II of the *Metaphysics of Morals*) in *Kant's ethical philosophy*. Translated by Ellington JW. Indianapolis: Hackett Publishing Company, 1983:12–13.
- 15 Korsgaard CM. Morality as freedom. In: Yovel Y, eds. *Kant's practical philosophy reconsidered*. Dordrecht and Boston: Kluwer Academic Publishers, 1989:23–48.
- 16 Häyry M. The tension between self governance and absolute inner worth in Kant's moral philosophy. *J Med Ethics* 2005;**31**:645–7.
- 17 Aristotle. *Nicomachean ethics*. Newburyport, MA: Focus Publishing/R. Pullins Co, 2002: 1102b 29–32; VI 1138b 36–1139a 1–15.
- 18 Takala T. The (im)morality of (un)naturalness. *Camb Q Healthcare Ethics* 2004;**13**:15–19.
- 19 MacIntyre A. *Three rival versions of moral inquiry*. England: Duckworth, 1988.
- 20 Raz J. *The morality of freedom*. Oxford: Clarendon Press, 1986.
- 21 Miller D. Constraints on freedom. *Ethics* 1983;**94**:66–84.
- 22 Häyry M, Airaksinen T. Hard and soft offers as constraints. *Philosophia—Philoso Q Isr* 1988;**18**:385–98.
- 23 Hobbes T. *Leviathan*. Oxford: Oxford paperbacks, 1998.
- 24 Locke J. *An essay concerning human understanding*. In: Raphael DD, eds. *British moralists*. Indianapolis: Hackett Publishing Company, 1991.
- 25 Locke J. In: Macpherson CB, ed. *Second treatise of government*. Indianapolis: Hackett Publishing, 1980.
- 26 Tully J. Locke on liberty. In: Pelczynski Z, Grey J, eds. *Conceptions of liberty in political philosophy*. London: The Athlone Press, 1984:65–6.
- 27 Smith GW. J. S. Mill on freedom. In: Pelczynski Z, Grey J, eds. *Conceptions of liberty in political philosophy*. London: The Athlone Press, 1984:184.
- 28 Bentham J. In: Ogden CK, ed. *The theory of legislation*. London: Kegan, Paul, Trench Trubner, 1931:94–5.
- 29 Rhodes R. Genetic links, family ties and social bonds: rights and responsibilities in the face of genetic knowledge. *J Med Philos* 1998;**23**:10–30.
- 30 Harris J, Keywood K. Ignorance, information and autonomy. *Theor Med Bioeth* 2001;**22**:415–36.
- 31 Buryska, JF. Assessing the ethical weight of cultural, religious and spiritual claims in the clinical context. *J Med Ethics* 2001;**27**:118–22.
- 32 Gillon R. *Philosophical medical ethics*. Chichester: John Wiley and Sons, 1985:69.
- 33 Engelhardt HT Jr. The many faces of autonomy. *Health Care Anal* 2001;**9**:293.